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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92046185
Party	Defendant Pro Football, Inc.
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Date	05/29/2012
Attachments	Appendix part 16_1996.03.27 Cooke Deposition.pdf (73 pages)(1786025 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In re Registration No. 1,606,810 (REDSKINETTES)
Registered July 17, 1990,

Registration No. 1,085,092 (REDSKINS)
Registered February 7, 1978,

Registration No. 987,127 (THE REDSKINS & DESIGN)
Registered June 25, 1974,

Registration No. 986,668 (WASHINGTON REDSKINS & DESIGN)
Registered June 18, 1974,

Registration No. 978,824 (WASHINGTON REDSKINS)
Registered February 12, 1974,

and Registration No. 836,122 (THE REDSKINS—STYLIZED LETTERS)
Registered September 26, 1967

Amanda Blackhorse, Marcus Briggs,)	Cancellation No. 92/046,185
Phillip Gover, Jillian Papan, and)	
Courtney Tsotigh,)	
)	
Petitioners,)	
)	
v.)	
)	
Pro-Football, Inc.,)	
)	
<u>Registrant.</u>)	

DEPOSITION TRANSCRIPT OF JOHN KENT COOKE, MARCH 27, 1996

PART 16

Respectfully Submitted,

/s/ Robert L. Raskopf

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In The Matter Of:

*SUZAN SHOWN HARJO, RAYMOND D. APODACA, et al. v.
PRO-FOOTBALL, INC.*

*JOHN KENT COOKE
Vol. 2, March 27, 1996*

*Beta Reporting
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IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
In re Registration No. 1,606,810:
(Redskins), Registered
July 17, 1990,
Registration No. 1,343,442 (Skins):
Registered June 18, 1985,
Registration No. 1,085,092
(Redskins)
Registered February 7, 1978,
Registration No. 987,127
(The Redskins & Design)
Registered June 25, 1974,
Registration No. 986,668
(Washington Redskins & Design):
Registered June 18, 1974,
Registration No. 978,824
(Washington Redskins)
Registered February 12, 1974, Cancellation
and Registration No. 836,122 : No. 21,069
(The Redskins - Stylized Letters):
Registered September 26, 1967:
SUZAN SHOWN HARJO, RAYMOND D. :
APODACA, VINE DELORIA, JR., :
NORBERT S. HILL, JR., MATEO :
ROMERO, WILLIAM A. MEANS, and :
MANLEY A. BEGAY, JR., : VOLUME 2
Petitioners,
v.
PRO-FOOTBALL, INC.,
Respondents.
Washington, D.C.
Wednesday, March 27, 1996

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Continued Deposition of
JOHN KENT COOKE
a witness, called for examination by counsel
for the Petitioners, pursuant to notice of
counsel, held at the law offices of Dorsey &
Whitney, Suite 200, 1330 Connecticut Avenue,
N.W., Washington, D.C., beginning at 9:45 a.m.,
before Monica A. Voorhees, RPP/CSR and notary
public in and for the District of Columbia,
when were present on behalf of the respective
parties:
APPEARANCES:
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[1] PROCEEDINGS
[2] Whereupon,
[3] JOHN KENT COOKE [4] was recalled
as a witness and, having been [5] pre-
viously duly sworn, was examined and [6]
testified further as follows:

[7] EXAMINATION BY COUNSEL FOR
PETITIONERS

[8] BY MR. LINDSAY:

[9] Q: Mr. Cooke, you realize you are still
[10] under oath?

[11] A: I do.

[12] Q: Sir, has the Washington football
team [13] ever conducted any formal
survey or interview [14] process of its
players to determine whether [15] they
approve or disapprove of the team's
name?

[16] A: No.

[17] Q: Have you, yourself, ever spoken
with [18] any individual players about
whether they [19] approve or disapprove
of the Washington team's [20] name?

[21] A: No.

[22] Q: Are you otherwise aware of any

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[1] players who disapprove of the Wash-
ington [2] football team's name?

[3] A: I'm not aware of any.

[4] Q: Who is Charlie Mann?

[5] A: Charles Mann.

[6] Q: Charles Mann?

[7] A: He is an ex-Redskin football player.

[8] Q: Why is he an ex-Redskins football
[9] player as you say rather than a current
player?

[10] A: Because his career is over. He has
[11] retired from the Redskins.

[12] Q: Are you aware of Mr. Mann ever
having [13] expressed views about the
name of the [14] Washington football
team?

[15] A: No, I am not.

[16] Q: You've never heard it said that he

[17] disapproves of the name?

[18] A: No, I have not.

[19] Q: You've never heard it said that he
[20] would wish the name changed if the
name were [21] offensive to American-
Indians?

[22] A: I have not heard that.

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[1] Q: Sir, are there ever pregame or [2]
half-time locker room pep talks for the [3]
Washington football players?

[4] MR. REINER: Object to the form of [5]
the question. You may answer.

[6] THE WITNESS: I don't know what
you [7] mean by pep talks.

[8] BY MR. LINDSAY:

[9] Q: All right, one sees in the movies, [10]
for example, speeches by a coach asking
the [11] players to win one for the Gipper.
[12] With that, do you have a general [13]
recollection of that type of scene in
movies?

[14] A: Movies, yes.

[15] Q: Does anything like that happen in
[16] real life?

[17] A: Sometimes.

[18] Q: Have you ever been present for
such a [19] pep talk?

[20] A: No.

[21] Q: Do you have an understanding of
who, [22] besides the players, would be
present for such

Page 8

[1] a pep talk for the Washington football
team?

[2] MR. REINER: Object to the form of [3]
the question. You may answer it.

[4] THE WITNESS: I have an [5] under-
standing, but I don't know.

[6] BY MR. LINDSAY:

[7] Q: What is your understanding?

[8] A: It would be the players and the [9]
coaches.

[10] Q: Have you ever spoken with any of
the [11] players or coaches about the
contents of any of [12] these pep talks?

[13] A: Not that I can recall.

[14] Q: Has the Washington team ever
received [15] any complaints, protests or
objections to the [16] use of the word
Redskin in its name?

[17] MR. REINER: That's a compound [18]
question, Counselor. If you could break it
[19] down, please.

[20] BY MR. LINDSAY:

[21] Q: Has anyone ever communicated
to the [22] Washington football team
views in opposition to

Page 9

[1] the use of the word Redskin or

Redskins in the [2] football team's name?

[3] MR. REINER: Object to the form of [4] the question. A time frame has not been [5] established. A foundation has not been [6] established in terms of what you mean by the [7] terminology.

[8] MR. LINDSAY: I'm sorry, what I mean [9] by the term what?

[10] MR. REINER: The terminology. I [11] believe you used the word protest; what does [12] that mean?

[13] MR. LINDSAY: No, I believe I used [14] the word communications.

[15] Could you read the question back.

[16] MR. REINER: Why don't we get the [17] question back. Let's get the question.

[18] (The reporter read the record as [19] requested.)

[20] MR. REINER: You may answer it.

[21] THE WITNESS: Yes.

[22] BY MR. LINDSAY:

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[1] Q: Have you had any role in receiving [2] such communications?

[3] A: I believe so.

[4] Q: What has your role been?

[5] A: Some of those letters, I believe, [6] have been either sent to me directly or I had [7] been copied from other people who had received [8] those letters.

[9] Q: Sir, do you believe as executive vice [10] president of the Washington football team that [11] you are generally aware of all of the [12] communications in opposition to the use of the [13] word Redskin or Redskins that the Washington [14] football team has received?

[15] A: I don't know that.

[16] Q: Have you ever seen any files [17] containing what you understood to be [18] substantially all of the written such [19] communications that the Washington football [20] team has received?

[21] A: I have seen my files on that.

[22] Q: You have your own files on that

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[1] topic?

[2] A: That's correct.

[3] Q: How many pages do those files [4] contain, approximately?

[5] A: I don't know.

[6] Q: Do those files have any particular [7] name?

[8] A: I don't recall.

[9] Q: Setting aside whether you can recall [10] what the name is, do you recall whether they [11] have a name?

[12] A: They are filed under a name, if [13] that's what you're asking me, yes.

[14] Q: And in saying that they are filed [15] under a name, do you mean a subject

heading or [16] an individual name?

[17] A: I would think it would be a subject [18] heading.

[19] Q: Have you provided those files to your [20] counsel?

[21] A: Yes.

[22] Q: As you sit there today, sir, do you

Page 12

[1] have a sense, without knowing the particular [2] number of pages, do you have a sense of the [3] volume of materials that exist in your files?

[4] MR. REINER: In your files?

[5] BY MR. LINDSAY:

[6] Q: The files in which you have just been [7] speaking.

[8] A: In my files?

[9] Q: Yes.

[10] A: Yes.

[11] Q: About how many inches of materials [12] are there?

[13] A: Oh, I would say about four, five [14] inches.

[15] Q: We have been talking, sir, about [16] communications received from individuals [17] expressing views in opposition to the use of [18] the word Redskin or Redskins.

[19] In addition to those communications [20] themselves, do these files of your own of which [21] you have been speaking contain other documents?

[22] A: Yes.

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[1] Q: What documents do they contain?

[2] A: They contain surveys. They contain [3] interoffice memorandum. I believe they contain [4] copies of my correspondence replying to those [5] letters I've received. You have them all.

[6] Q: You said, sir, that your files [7] contain surveys and you used the plural form.

[8] Is there any survey other than the [9] Veritas/WTOP survey that we discussed yesterday [10] that you recall being in those files?

[11] A: I don't recall at this point.

[12] Q: Setting aside whether you recall any [13] particular such survey, do you recall whether [14] there was more than the one survey in your [15] files?

[16] A: I don't recall.

[17] Q: In general, sir, do you believe that [18] persons who have written to the Washington [19] football team expressing their views in [20] opposition to the use of the word Redskin or [21] Redskins in the team name sincerely hold the [22] views expressed in their communications?

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[1] MR. REINER: Object to the form of [2] the question. You may answer, if you can.

[3] THE WITNESS: How can I know that.

[4] BY MR. LINDSAY:

[5] Q: In replying to any of these persons, [6] have you ever said to them that you do not [7] believe they hold their views sincerely and in [8] good faith?

[9] MR. REINER: Object to the form of [10] the question. You may answer.

[11] THE WITNESS: I don't recall.

[12] BY MR. LINDSAY:

[13] Q: Sir, have persons ever written to the [14] Washington football team expressing views in [15] support of the use of the word Redskin or [16] Redskins in the football team's name?

[17] A: Yes, I think so.

[18] Q: Do you believe, sir, that the persons [19] who have written in support of such use [20] sincerely hold the beliefs expressed in their [21] communications?

[22] A: How do I know that.

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[1] Q: Is there anyone, sir, within the [2] Washington football organization who has been [3] asked to determine the sincerity of beliefs [4] held by writers either for or against the use [5] of the name - excuse me, the word Redskin in [6] the Washington football team's name?

[7] A: Would you repeat the question, [8] please.

[9] (The reporter read the record as [10] requested.)

[11] THE WITNESS: No.

[12] BY MR. LINDSAY:

[13] Q: Has the Washington football team, in [14] addition to receiving written communications [15] expressing views in opposition to the use of [16] the word Redskin or Redskins in the team name, [17] also received telephone calls expressing such [18] views?

[19] MR. REINER: Object to the form of [20] the question.

[21] THE WITNESS: Not that I recall.

[22] BY MR. LINDSAY:

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[1] Q: Has the Washington football team [2] received telephone communications from [3] individuals expressing views in support of the [4] Washington football team's use of the word [5] Redskin or Redskins in its name?

[6] A: I don't recall.

[7] Q: Does the Washington football team [8] maintain any kind of logs or other records of [9] such calls?

[10] A: We do not - we do not have logs of [11] our telephone conversations and the

subject [12] matter of those conversations.

[13] Q: You've used the word logs in your [14] response, sir, and I want to make sure that we [15] have clarity of understanding.

[16] Granting for the moment that the [17] Washington team does not keep logs, does the [18] Washington team keep any other kinds of written [19] records of those phone conversations?

[20] MR. REINER: Object to the form of [21] the question. You may answer it.

[22] THE WITNESS: We occasionally would

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[1] have a memo to file recapping a conversation, [2] I'm speaking on conversations generally. [3] Whether it has to do with player contracts, [4] advertisers to sponsors or a subject matter [5] such as this I can't positively identify to [6] you.

[7] BY MR. LINDSAY:

[8] Q: Have you, yourself, ever written such [9] a memorandum?

[10] A: I have written those kind of [11] memorandums, yes.

[12] Q: Have you, yourself, ever received [13] such memorandum?

[14] A: I have received copies of, [15] occasionally received copies of memorandums to [16] files written by others in the organization.

[17] Q: When you have written or received [18] memoranda concerning views expressed either for [19] or against the use of the word Redskin or [20] Redskins in the football team's name, has it [21] been your practice to put a copy of that [22] memorandum in the files of which you've already

Page 18

[1] spoken this morning?

[2] A: I do not recall if there is such a [3] memorandum concerning the name of the [4] Washington Redskins.

[5] Q: Sir, if you either wrote or received [6] such a memorandum, do you believe you would [7] have placed it or a copy of it in the files of [8] which you have spoken this morning?

[9] A: I do.

[10] Q: Sir, setting aside whether you can [11] recall the number of pages that your files [12] contain, as you sit there today, do you have [13] any sense of the number of persons who have [14] written to the Washington football team [15] expressing views in opposition to the use of [16] the word Redskin or Redskins in the team name?

[17] A: No.

[18] Q: Do you believe that it is more than [19] one person?

[20] A: Yes.

[21] Q: Do you believe it is more than 100 [22] persons?

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[1] A: I don't know.

[2] Q: Sir, given that some number of [3] persons, and I understand you cannot recall the [4] number, but some number of persons have written [5] to the Washington football team expressing [6] views in opposition to the use of the word [7] Redskin or Redskins in the team's name, do you [8] believe that that is an issue on which [9] reasonable minds can differ?

[10] MR. REINER: Object to the form of [11] the question. You can answer the question, if [12] you can.

[13] THE WITNESS: I don't know what you [14] mean by that question.

[15] BY MR. LINDSAY:

[16] Q: Do you have an understanding of the [17] word reasonable?

[18] A: Yes.

[19] Q: What does the word reasonable mean to [20] you?

[21] A: I think it would be a fair, objective [22] definition of something that would be generally

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[1] agreed to.

[2] Q: Do you believe that in order for a [3] view to be reasonable, it must be one that is [4] generally agreed to?

[5] A: No, not necessarily.

[6] Q: You agree that there can be views [7] that are not generally agreed to but are, [8] nonetheless, reasonable?

[9] A: Yes.

[10] Q: And would you agree further, sir, [11] that, using your definition of the word [12] reasonable, that reasonable minds could come to [13] views that you do not agree with?

[14] A: I respect other people's opinion, if [15] that's what you're asking me.

[16] Q: That's not quite what I'm asking you, [17] sir. What I am asking is: Do you agree with [18] the proposition that the fact that a person [19] comes to a view which you do not happen to [20] share does not, in and of itself, make that [21] person or that person's views unreasonable?

[22] MR. REINER: Object to the form of

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[1] the question. It's argumentative. You may [2] answer.

[3] THE WITNESS: Yes, I would agree with [4] that.

[5] BY MR. LINDSAY:

[6] Q: With that background, sir, do you [7] believe that reasonable minds could

come to the [8] conclusion that the use of the word Redskin or [9] Redskins in the Washington football team's name [10] is disparaging?

[11] MR. REINER: Objection. It calls for [12] a conclusion, legal conclusion. Don't answer [13] the question.

[14] BY MR. LINDSAY:

[15] Q: Sir, I am not asking for your [16] views - you are not a lawyer; is that correct?

[17] A: That's correct.

[18] Q: So I am not asking for your legal [19] opinions. You have given me your understanding [20] of the word reasonable; is that correct?

[21] A: I have.

[22] Q: And yesterday you gave me your

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[1] understanding of the word disparaging; is that [2] correct?

[3] A: Yes, I believe I did.

[4] Q: Using those understandings and not [5] asking you for any legal consequences as to [6] those words, do you believe that a reasonable [7] mind can come to the conclusion that the use of [8] the word Redskin or Redskins in the Washington [9] football team's name is disparaging?

[10] MR. REINER: Object to the question. [11] No foundation has been laid. Are you talking [12] about one person? We don't know what you're [13] talking about in terms of context.

[14] I don't think it's an appropriate [15] question for this witness to be speculating on. [16] Don't answer the question. There's no [17] foundation.

[18] BY MR. LINDSAY:

[19] Q: Sir, you agree that some number of [20] persons greater than one have come to the [21] conclusion that the word Redskin or Redskins as [22] used in the Washington football team's name is

Page 23

[1] disparaging; do you not?

[2] MR. REINER: Object to the form of [3] the question. It's asking for a legal [4] conclusion of this witness, but you may answer [5] the question.

[6] THE WITNESS: I have received letters [7] complaining about the use of the name Redskins.

[8] BY MR. LINDSAY:

[9] Q: And you have previously testified, [10] sir, that you are unable to tell me whether the [11] persons expressing those views hold the beliefs [12] sincerely, correct?

[13] A: I have no idea.

[14] Q: Do you believe, whether or not the [15] views are held sincerely, that the

views^[16] expressed are reasonable?

^[17] MR. REINER: Object to the form of
^[18] the question. Don't answer it.

^[19] BY MR. LINDSAY:

^[20] Q: Setting aside whether you will
answer ^[21] the question, sir, are you able
to answer the ^[22] question?

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^[1] MR. REINER: Don't answer that ^[2]
question.

^[3] BY MR. LINDSAY:

^[4] Q: Do you believe, sir, that everyone
^[5] who objects to the use of the word
Redskin or ^[6] Redskins in the Wash-
ington football team's name ^[7] is an
extremist?

^[8] MR. REINER: Object to the form of ^[9]
the question.

^[10] THE WITNESS: I don't know that.

^[11] BY MR. LINDSAY:

^[12] Q: What is your understanding of the
^[13] word extremist, sir?

^[14] MR. REINER: We are not here for a
^[15] debate. You got an answer.

^[16] MR. LINDSAY: I'm entitled to know
^[17] what his answer means, sir.

^[18] BY MR. LINDSAY:

^[19] Q: What is your understanding of the
^[20] word extremist?

^[21] MR. REINER: You used the word, not
^[22] this witness here. He gave you an
answer.

Page 25

^[1] Please, let's go on. Don't answer any
more ^[2] questions.

^[3] BY MR. LINDSAY:

^[4] Q: Sir, is your understanding of the ^[5]
word extremist anything different from
standard ^[6] dictionary definitions of the
word?

^[7] MR. REINER: You may answer that ^[8]
question.

^[9] THE WITNESS: I don't recall the ^[10]
standard definition of the word ex-
tremist in ^[11] the dictionary.

^[12] BY MR. LINDSAY:

^[13] Q: Sir, who is John Kent Cooke,
Junior?

^[14] A: He is my son.

^[15] Q: And does he hold a position
within ^[16] the Washington football team?

^[17] A: He does.

^[18] Q: What position does he hold?

^[19] A: He is director of stadium oper-
ations ^[20] and marketing for the Re-
dskins.

^[21] Q: Sir, do you agree that in September
^[22] of 1993 he held the position of
director of

Page 26

^[1] promotions and stadium operations?

^[2] A: Yes.

^[3] Q: Is that the same position?

^[4] A: Yes, it is.

^[5] Q: What are the responsibilities of
that ^[6] position?

^[7] A: Responsibilities are to coordinate
^[8] the presentation of the football games
at RFK ^[9] Stadium, the coordination and
the arrangement ^[10] of promotions for
the Washington Redskins, the ^[11] sale of
advertising for the publications of the ^[12]
Washington Redskins and that's gener-
ally his ^[13] responsibilities.

^[14] Q: And those were his respon-
sibilities ^[15] in September of 1993, as
well?

^[16] A: Yes.

^[17] Q: In 1993, did the Washington foot-
ball ^[18] team have any kind of advertising
or ^[19] promotional relationship with the
McDonald's ^[20] Corporation?

^[21] A: I don't recall.

^[22] John K. Cooke Deposition

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^[1] Exhibit No. 7 was marked for ^[2]
identification.)

^[3] BY MR. LINDSAY:

^[4] Q: Sir, I'm showing you what has been
^[5] marked as John K. Cooke Exhibit 7.

^[6] Do you have that document before
you?

^[7] A: I do.

^[8] Q: And do you see that it bears a ^[9]
signature which purports to be that of
John ^[10] Kent Cooke, Junior?

^[11] A: It does.

^[12] Q: Do you recognize that as his ^[13]
signature?

^[14] A: I do.

^[15] Q: And do you see that it also appears
^[16] on letterhead that bears the words at
the top ^[17] The Redskins?

^[18] A: I'm sorry, would you repeat the ^[19]
question.

^[20] Q: Sure. Do you recognize that it ^[21]
appears on a piece of letterhead that
bears at ^[22] the top the word The
Redskins?

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^[1] A: Yes.

^[2] Q: Do you see in the lower right-hand
^[3] corner, sir, a handwritten notation BC
John K. ^[4] Cooke, Senior?

^[5] A: No.

^[6] Q: Do you see in the lower left-hand ^[7]
corner any handwriting?

^[8] A: Yes.

^[9] Q: Could you please recite that ^[10]
handwriting for me?

^[11] A: "BCC: John K. Cooke, Senior." Left
^[12] side.

^[13] Q: And is that yourself, sir?

^[14] A: That is me.

^[15] Q: Did you receive Exhibit 7 at about
^[16] the time it was written?

^[17] A: I don't recall.

^[18] Q: Do you have any reason to dis-
agree ^[19] with the proposition that you
received it?

^[20] A: None.

^[21] Q: Do you recognize that as a ^[22]
communication sent out in the ordinary
course

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^[1] of the business of the Washington
football ^[2] team?

^[3] A: This is a letter, a copy of a letter ^[4]
that appears to be sent by my son to Craig
Kapp ^[5] at McCann-Erickson, USA, Inc.

^[6] (Witness examined document)

^[7] BY MR. LINDSAY:

^[8] Q: Have you now completed your
reading ^[9] of the document, sir?

^[10] A: I have.

^[11] Q: In the first paragraph of the letter
^[12] do you see that your son expressed
the view ^[13] that "the Washington Re-
dskins are very ^[14] sensitive to our image,
particularly in this ^[15] day and age of
political correctness"; do you ^[16] see
that?

^[17] A: I do.

^[18] Q: Do you agree with that pro-
position?

^[19] A: Yes.

^[20] Q: In what way is the Washington ^[21]
football team sensitive to its image?

^[22] A: Our image is extremely important
to

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^[1] us. It is the accumulation of being in ^[2]
business for - as the Washington Re-
dskins for ^[3] close to, what is it, 60 years
now. It has ^[4] been carefully built up. It is
the principal ^[5] ingredient of our franch-
ise, of our business. ^[6] It is our name and it
is our reputation and it ^[7] is our tradi-
tions.

^[8] And we further that impression, that ^[9]
image to the best of our ability at all
times. ^[10] We protect the copyrights that
we hold for that ^[11] very reason.

^[12] Q: What is it, sir, about this, quote, ^[13]
"age of political correctness," closed
quote, ^[14] that causes the Washington
football team to be ^[15] particularly
sensitive?

^[16] MR. REINER: Object to the form of
^[17] the question. You had an answer, but
you may ^[18] continue. You may respond.

^[19] THE WITNESS: I think that we are ^[20]

sensitive to all our fans and our potential
[21] fans. We are in the business of
providing [22] entertainment and selling
tickets and building

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[1] ratings on television. That is our
business.

[2] **BY MR. LINDSAY:**

[3] **Q:** Sir, do you have an understanding
of [4] the phrase political correctness?

[5] **MR. REINER:** He just answered the [6]
question of what his interpretation of it
was [7] and what his understanding of it
was. So [8] you've asked a question,
you've gotten an [9] answer.

[10] **MR. LINDSAY:** Are you instructing
the [11] witness not to tell me the specific
meaning of [12] a phrase, sir?

[13] **MR. REINER:** You asked the ques-
tion, [14] you got an answer. I'm going to let
him answer [15] again, if he wishes, but
that's all.

[16] **MR. LINDSAY:** I disagree with the [17]
proposition that the question that has
now been [18] put to the witness has
either been asked and [19] answered.

[20] **MR. REINER:** Would you please read
[21] the question back and the answer of
the [22] witness.

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[1] **MR. LINDSAY:** And the subsequent [2]
question.

[3] **MR. REINER:** And the subsequent [4]
question, please.

[5] (The reporter read the record as [6]
requested.)

[7] **MR. REINER:** I believe the witness [8]
has already answered the question. I'm
going [9] to let him answer again. That's it.

[10] **THE WITNESS:** Which question am I
to [11] answer again?

[12] **MR. REINER:** Why don't you read the
[13] question back.

[14] (The reporter read the record as [15]
requested.)

[16] **THE WITNESS:** My understanding of
[17] that phrase is that there are a number
of [18] people who are very sensitive to
different [19] issues, more so today than
perhaps in the past, [20] certainly more
vocal today than they were in [21] the
past.

[22] **BY MR. LINDSAY:**

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[1] **Q:** When you say very sensitive, sir, do
[2] you in any way mean unreasonably
sensitive?

[3] **MR. REINER:** Object to the form of [4]
the question. You may answer.

[5] **THE WITNESS:** They are sensitive. [6]
Whether it's very sensitive or sensitive is
in [7] the eye of the listener, the ear of the
[8] listener, I suppose. I don't know.

[9] **MR. LINDSAY:** Could I have the [10]
question and answer back, please.

[11] (The reporter read the record as [12]
requested.)

[13] **BY MR. LINDSAY:**

[14] **Q:** Sir, I believe, and I don't wish to [15]
argue with you and if I have misunder-
stood your [16] answer, I trust that
either you or your counsel [17] will
attempt to correct me, but in your last [18]
answer, I believe you have said that the
[19] sensitivity of which you've spoken
may exist [20] and may or may not be
described as very [21] sensitive, but that
you have not told me [22] whether you
believe that your phrase, quote,

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[1] "very sensitive," closed quote, as used
in your [2] prior answer in any way means
that the [3] sensitivity is unreasonable?

[4] **MR. REINER:** Object to the question.

[5] You asked a question. You received an
answer. [6] You may not like the answer,
but you received [7] it. I'm instructing
him not to respond to an [8] argumen-
tative question by counsel.

[9] You can save that for a legal [10]
argument or do whatever else you wish,
but not [11] to this witness. He's here to
answer [12] questions, and he has. Don't
answer any more [13] questions on that,
sir.

[14] **BY MR. LINDSAY:**

[15] **Q:** For purposes of laying foundation
for [16] my motion to compel and/or my
motion in limine [17] to exclude the
witness testimony, I ask the [18] following
foundational questions.

[19] Sir, do you agree that in your prior [20]
answer you used the phrase, quote, "very
[21] sensitive," closed quote?

[22] **MR. REINER:** The record speaks for

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[1] itself. You may answer.

[2] **THE WITNESS:** I used that word, yes.

[3] **BY MR. LINDSAY:**

[4] **Q:** Are you capable of answering the
[5] following question with a yes or no
answer: In [6] using the phrase, quote,
"very sensitive," [7] closed quote, do you
mean in any way to suggest [8] that that
sensitivity is unreasonable?

[9] **MR. REINER:** Object to the form of [10]
the question. You may answer that
question.

[11] **THE WITNESS:** Would you repeat
that [12] question.

[13] **MR. LINDSAY:** Please read the [14]
question back.

[15] (The reporter read the record as [16]
requested.)

[17] **THE WITNESS:** It can be -

[18] **BY MR. LINDSAY:**

[19] **Q:** I'm sorry, sir, just so we are clear,
[20] the first question is whether you are
capable [21] of answering it yes or no.

[22] **A:** The answer is yes.

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[1] **Q:** Now, sir, that you have agreed that
[2] you are capable of answering the
question yes [3] or no, will you please
answer the question?

[4] **A:** Depends on the question.

[5] **Q:** I'm sorry?

[6] **A:** I say it depends on the question.

[7] **Q:** In using the phrase, quote, "very [8]
sensitive," closed quote, do you in any
way [9] imply that the sensitivity is
unreasonable?

[10] **MR. REINER:** Object to the form of
[11] the question. It is argumentative. You
may [12] answer.

[13] **THE WITNESS:** It can be.

[14] **BY MR. LINDSAY:**

[15] **Q:** Is it unreasonable, in your usage, in
[16] all cases?

[17] **MR. REINER:** Object to the question.
[18] It's argumentative. You may answer.

[19] **THE WITNESS:** No.

[20] **BY MR. LINDSAY:**

[21] **Q:** Sir, the next paragraph of Exhibit 7
[22] begins with the statement, "To help
facilitate

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[1] McDonald's process of creating an
advertising [2] campaign centered
around the Redskins, the [3] following are
among the criteria of how the [4] Re-
dskins name, logo and image must be
portrayed [5] in advertising"; do you see
that statement?

[6] **A:** I do.

[7] **Q:** Would you please read to yourself
the [8] items which are numbered one
through nine and [9] appear below that
statement.

[10] (Witness examined document)

[11] **THE WITNESS:** I've read those nine
[12] points.

[13] **BY MR. LINDSAY:**

[14] **Q:** Do you agree with the propo-
sition [15] expressed by your son as
director of promotions [16] and stadium
operations for the Washington [17] foot-
ball team that those nine items are, [18]
indeed, among the criteria of how the
Redskins [19] name, logo and image must
be portrayed in [20] advertising?

[21] **A:** I agree that these items are a good
[22] synopsis of our use of our logo and
name as of

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[1] this date of this letter.

[2] **Q:** Since the date of that letter, have [3]
your views as to what are among the

criteria^[4] for how the Redskins name, logo and image must ^[5] be portrayed in advertising changed in any way?

^[6] A: Since this date?

^[7] Q: Yes, sir.

^[8] A: No.

^[9] Q: So you agree that the nine points ^[10] remain among the criteria of how the Redskins ^[11] name, logo and image must be portrayed in ^[12] advertising?

^[13] A: That's correct.

^[14] Q: Sir, what is your understanding of ^[15] the phrase reserved and tasteful?

^[16] A: I suppose the best way to answer that ^[17] would be that we, the Redskins, portray our ^[18] logo and our image, generally, in a reserved ^[19] way.

^[20] It is best to describe an example of ^[21] what the coaches would wear on the sidelines, ^[22] whereas other teams might have different

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^[1] clothing, polo shirts and pants that might be ^[2] described as fad-ish.

^[3] The Washington Redskins will have the ^[4] coaches wear a solid burgundy or a solid yellow ^[5] or a solid white polo shirt with the Redskin ^[6] logo or name or both on the front of the ^[7] jersey.

^[8] Another example, the wearing of a ^[9] particular hat that might be used by other ^[10] teams throughout the NFL would not be allowed ^[11] by the Redskins. Instead, they would have the ^[12] Redskins hat with the Redskins R on it that has ^[13] been used for so many years.

^[14] This is advantageous to us, but ^[15] disadvantageous to people who are selling these ^[16] shirts and these hats; however, we are so ^[17] concerned about our image that we maintain ^[18] those policies.

^[19] Q: Other than conservative sartorial ^[20] standards, is there anything else that you ^[21] understand the phrase reserved and tasteful to ^[22] mean?

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^[1] A: This applies to all forms of ^[2] advertising, all forms of promotional items, as ^[3] well as clothing, wherever our name and logos ^[4] are used, including publicity.

^[5] Q: Sir, are you able to illustrate your ^[6] understanding of the phrase reserved and ^[7] tasteful with examples other than those ^[8] pertaining to clothing styles?

^[9] A: Yes.

^[10] Q: Can you please give me other ^[11] examples.

^[12] A: Well, for instance, our preseason ^[13] games are carried by WJLA TV here in ^[14] Washington, an ABC affiliate. They will ^[15] promote those preseason games and their ^[16] association with the Wash-

ington Redskins with ^[17] an adaptation of our logo, which would be a ^[18] circle with feathers on it and the WJLA logo in ^[19] the circle instead of the traditional Redskins ^[20] profile.

^[21] Q: And that is a use of which the ^[22] Redskins approve?

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^[1] A: Yes, we have approved that. Another ^[2] example would be on the 50th anniversary of the ^[3] Redskins in 1987. We changed our logo for some ^[4] promotional purposes to incorporate the numbers ^[5] 50, and in the zero, we had the Indian profile ^[6] in our Redskin logo.

^[7] And there are many examples like ^[8] that.

^[9] Q: Sir, is it important, then, to the ^[10] Washington football team that advertising be ^[11] reserved and tasteful?

^[12] A: Yes.

^[13] Q: Why is that?

^[14] A: Because we have a long-standing ^[15] tradition. We have a tremendous following and ^[16] we want to keep that tradition and keep that ^[17] following popularity.

^[18] Q: Sir, item three in the letter reads ^[19] no caricatures?

^[20] A: I do.

^[21] Q: What is your understanding of the ^[22] word caricatures?

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^[1] A: I would describe that as a cartoon or ^[2] drawing depicting the Redskins, either a pen ^[3] drawing or an animated drawing.

^[4] Q: Sir, you have just described a logo ^[5] for a local TV station that includes feathers ^[6] and a circle around the name of that local TV ^[7] station; is that correct?

^[8] A: That's correct.

^[9] Q: Do you consider that a caricature?

^[10] A: No.

^[11] Q: In your understanding of that logo, ^[12] are the feathers drawn or photographed?

^[13] A: Feathers are drawn, I believe.

^[14] Q: Do you include drawn illustrations of ^[15] feathers within your meaning of the word ^[16] caricature?

^[17] A: I don't quite understand the ^[18] question.

^[19] Q: You've told me, sir, that caricature ^[20] means cartoons or drawings; is that correct?

^[21] A: Of the Washington Redskins is the ^[22] full answer, I believe.

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^[1] Q: And when you say of the Washington ^[2] Redskins, what do you mean?

^[3] A: I mean the organization, of course.

^[4] Q: How is it that one could draw a ^[5] picture of the Washington Redskins?

^[6] A: You can - we do - we have pictures ^[7] of the Washington Redskins every year, team ^[8] photographs. There are pictures duplicated of ^[9] press, of television and of newspapers ^[10] throughout the world.

^[11] Q: In your understanding of the ^[12] Washington football team's policy, is the ^[13] prohibition of caricatures in advertising meant ^[14] strictly to prohibit cartoons or other drawings ^[15] of the Washington football team's players, ^[16] either individually or collectively, or is ^[17] anything else included within your ^[18] understanding?

^[19] MR. REINER: Object to the form of ^[20] the question. It's compound. It's ^[21] argumentative. Don't answer that question, but ^[22] I'm not precluding questions along these lines.

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^[1] MR. LINDSAY: I do not withdraw the ^[2] question, but I understand that counsel has ^[3] instructed not to answer that particular ^[4] question.

^[5] MR. REINER: That particular ^[6] question, but not this line of questioning, ^[7] Counselor.

^[8] MR. LINDSAY: And I will, therefore, ^[9] continue my question, but we reserve all rights ^[10] with respect to the preceding question.

^[11] MR. REINER: Of course.

^[12] BY MR. LINDSAY:

^[13] Q: Sir, thus far I believe you have told ^[14] me that it is permissible under Washington ^[15] football team's policies with respect to ^[16] advertising to include in an advertisement a ^[17] line drawing of feathers; is that correct?

^[18] A: That is correct.

^[19] Q: And you have told me that it is not ^[20] permissible under that policy to include line ^[21] drawings of individual members of the ^[22] Washington football team; is that correct?

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^[1] A: That is not correct.

^[2] Q: It is permissible to include line ^[3] drawings of individual members of the ^[4] Washington football team?

^[5] A: It is, if they are reserved and ^[6] tasteful.

^[7] (Discussion off the record)

^[8] (The reporter read the record as ^[9] requested.)

^[10] BY MR. LINDSAY:

^[11] Q: Sir, we've had the last three ^[12] questions and answers read back and you have ^[13] been present for that

reading; is that correct?

[14] A: That's correct.

[15] Q: Is it your testimony, sir, then, that [16] line drawings are permitted in advertising that [17] uses the Redskins name or marks as long as the [18] line drawing is reserved and tasteful?

[19] A: If you mean by line drawing a drawing [20] itself, whether it's done by free hand or [21] computer, the answer is yes.

[22] Q: Are there any more specific

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[1] prohibitions on the types of drawings, then, [2] that may be used, other than the requirement [3] that they be reserved and tasteful?

[4] A: Well I think that the description [5] reserved and tasteful will just about cover [6] everything that some artist might come up with. [7] I think that the final approval would be done [8] by me and I would be the one deciding whether [9] it was reserved and tasteful.

[10] Q: Sir, item number four in Exhibit 7 [11] reads no Indian costumes or headaddresses; do you [12] see that?

[13] A: I do.

[14] Q: What is your understanding of Indian [15] costumes?

[16] A: It would be what Indians - it might [17] be perceived that Indians wear, traditionally [18] or even currently, today.

[19] Q: Can you give me an example of an [20] article of clothing that you, yourself, [21] consider Indian costume?

[22] A: I can't specifically say one, other

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[1] than perhaps a shirt made out of sheepskin or [2] an Indian blanket used as a shawl, over the [3] shoulders. But to describe it exactly, I'm [4] afraid I'm at a loss.

[5] Q: The policy also prohibits [6] headaddresses; is that specifically Indian [7] headaddresses?

[8] A: These nine points were described to [9] McCann-Erickson for McDonald's Corporation so [10] that they could draw up, create, if you will, a [11] promotion or advertising to sell hamburgers and [12] soft drinks and their chains and to be [13] associated generally with the Washington [14] Redskins.

[15] These nine points were given to them [16] so that they could create that advertising or [17] promotional campaign, what they call a [18] campaign.

[19] The use of headaddresses and Indian [20] costumes would have to be reserved and tasteful [21] if a campaign was going to - or campaign ideas [22] were going to be submitted to us for final

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[1] approval.

[2] I don't know if that specifically [3] answers your question, but I think that's the [4] best way to answer it.

[5] Q: Are you telling me, sir, that [6] contrary to the language of Exhibit 7, it was, [7] in fact, permissible for McDonald's to use [8] Indian costumes and headaddresses in its [9] advertising?

[10] A: No.

[11] Q: It was not permissible for McDonald's [12] to use Indian costumes or headaddresses in its [13] advertising; is that correct?

[14] A: That's what it says in this letter, [15] in Exhibit 7.

[16] Q: Why did the Washington football team [17] not want Indian costumes or headaddresses used in [18] such advertising?

[19] A: Because we didn't - we are sensitive [20] to our image and we want our image to be [21] reserved and tasteful.

[22] Q: What is it about Indian costumes or

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[1] headaddresses that is not reserved and tasteful?

[2] MR. REINER: In what context?

[3] MR. LINDSAY: In the context of [4] advertising and the policy as set forth in [5] Exhibit 7.

[6] MR. REINER: With respect to [7] specifically Exhibit 7, all right. You may [8] answer that one.

[9] THE WITNESS: Well I suppose it would [10] be best with an example. It could be that they [11] may come up with an idea that feathers are [12] sticking out of a hamburger and when they say [13] that the Washington Redskins live on McDonald's [14] hamburgers; to me, that is inappropriate. And [15] that could be - and that would not be [16] approved.

[17] It depends on what the art director [18] at McCann-Erickson creates and comes up with [19] and that final approval would be done by us and [20] it would be our sole decision of whether or not [21] it is acceptable with the image that we have [22] carefully maintained these many years.

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[1] BY MR. LINDSAY:

[2] Q: Sir, the example that you just [3] provided, you gave as part of your example a [4] feather.

[5] Do you consider a feather to be part [6] of Indian costumes or headaddresses?

[7] A: Feathers are used by the Washington [8] Redskins in their logo to represent the [9] Washington Redskins.

[10] In the example I gave you, the [11] McDonald's Corporation could be using the [12] Washington Redskins to sell their product or to [13] be associated with us because we have such a [14] fine image. In my opinion, they do, too, so it [15] would be beneficial to both sides.

[16] But the use of the feathers and the [17] use of the name the Washington Redskins could [18] be misused and we reserve the right to approve [19] the artwork so that it isn't misused so that [20] neither our image nor the McDonald's image is [21] damaged in any way.

[22] Q: Sir, in the example you gave, do you

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[1] or do you not consider a feather to be Indian [2] costume or headaddress?

[3] A: I use the Indian feathers in the [4] Washington Redskin logo and it has long been [5] associated with the Washington Redskins [6] football club.

[7] Q: I understand that, sir. And my [8] question is: Do you or do you not consider [9] feathers in the illustration that you gave to [10] be Indian costume or headaddress?

[11] MR. REINER: Object to the form of [12] the question. The question has been asked and [13] answered. You may answer again.

[14] THE WITNESS: I am talking about the [15] feathers that are used in our logo being [16] redrawn by an art director - this is a [17] supposition, I don't think that any of this [18] ever happened, but you asked for a possible [19] example - where those feathers which are [20] generally thought of as being part of our logo [21] are being used by the McDonald's Corporation [22] inappropriately, in our opinion.

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[1] BY MR. LINDSAY:

[2] Q: Do you consider the feathers in the [3] Washington Redskins logo, as you have used that [4] phrase, to be Indian headaddress or costume?

[5] A: No.

[6] Q: Sir, item five in Exhibit 7 reads, [7] "No war chants, yelling, derogatory Indian [8] language (i.e., quote, Scalp the Cowboys, et [9] cetera,) closed quote."

[10] Do you see that?

[11] A: I do.

[12] Q: Why did the Washington football team [13] not wish advertising to include war chants, [14] yelling - actually, lest I draw an objection [15] that the question is compound, let me ask them [16] separately.

[17] Why did the Washington football team [18] not wish war chants to be used in such [19] advertising?

[20] A: We don't want the team - we don't
[21] want our image to be changed in any
way to what [22] we already have is the
best answer.

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[1] Q: And you believe that the use of war
[2] chants is inconsistent with the image
that the [3] Washington football team
wishes to project?

[4] A: That's correct.

[5] Q: Why is it that the Washington [6]
football team did not wish such ad-
vertising to [7] include derogatory Indian
language?

[8] A: Because it is not consistent with
the [9] image that we have, the Wash-
ington Redskins [10] have.

[11] Q: Do you agree with the pro-
position [12] that, quote, "scalp the Cow-
boys," closed quote, [13] falls within your
understanding of the phrase [14] der-
ogatory Indian language?

[15] A: I think that that phrase is - can be
[16] construed by some to be in-
appropriate, excuse [17] me, the phrase of
scalp the Cowboys, et cetera.

[18] Q: Sir, I don't believe in our prefatory
[19] comments yesterday that I asked you
for your [20] understanding of this word,
so let me do so [21] now.

[22] What is your understanding of the

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[1] word derogatory?

[2] MR. REINER: I believe we did go [3]
through this.

[4] MR. LINDSAY: No, we covered [5] dis-
paraging, we did not cover derogatory.

[6] MR. REINER: Okay, fine. You may [7]
answer that.

[8] THE WITNESS: What is my [9] un-
derstanding of it?

[10] BY MR. LINDSAY:

[11] Q: Yes, sir.

[12] A: My understanding would be to [13]
ridicule, to degrade, to insult.

[14] MR. LINDSAY: Could I have the [15]
witness' answer not to that question but
to the [16] prior question. Read the
question, too.

[17] (The reporter read the record as [18]
requested.)

[19] BY MR. LINDSAY:

[20] Q: Sir, I understand from your tes-
timony [21] that you believe some may
consider or construe [22] the phrase scalp
the Cowboys as being

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[1] inappropriate.

[2] Now that we have your under-
standing, [3] sir, of the word derogatory,
do you consider [4] the phrase, "scalp the
Cowboys" to be [5] derogatory?

[6] A: I think it is inappropriate and [7]
unnecessary and it is simply not needed
to [8] maintain our image that we have
maintained over [9] these many years.

[10] Q: When you say that it is [11] in-
appropriate, what do you mean?

[12] A: I don't think it's necessary for us
[13] to have this kind of thing or any of
these [14] other things to maintain our
reputation that [15] we've had since 1937
known as the Washington [16] Redskins;
therefore, we will not have these [17]
things.

[18] Whether or not someone says that
this [19] is derogatory is up to the person
who sees [20] these things. Since we
control this club, this [21] is our policy and
this is our theory and this [22] is how we
will maintain our image.

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[1] Q: I understand, sir, that you believe [2]
that the use of the phrase scalp the
Cowboys is [3] unnecessary.

[4] Do you believe that the phrase scalp [5]
the Cowboys is degrading?

[6] A: What I believe is immaterial. The [7]
only thing that is material is our policy in
[8] that this is unnecessary to have at this
time, [9] therefore, we will not have it. It's
a [10] privately-held corporation and
that's the way [11] it is.

[12] Q: I understand, sir, that you believe
[13] it is immaterial. Let me ask the
foundational [14] question.

[15] Do you, personally, have a belief as [16]
to whether the phrase scalp the Cow-
boys is [17] derogatory?

[18] MR. REINER: Object to the form of
[19] the question. It is argumentative. I
think [20] it's irrelevant. You may answer.

[21] THE WITNESS: The phrase scalp the
[22] Cowboys is not derogatory to me.

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[1] BY MR. LINDSAY:

[2] Q: Do you have a belief, sir, as to [3]
whether the phrase scalp the Cowboys
is [4] derogatory to anyone other than
yourself?

[5] A: I don't know.

[6] Q: You don't know whether you have
a [7] belief or your belief is that you do not
know [8] whether it is derogatory?

[9] MR. REINER: That's not the question.
[10] Why don't you read the question
back, please, [11] and the answer.

[12] (The reporter read the record as [13]
requested.)

[14] BY MR. LINDSAY:

[15] Q: Sir, the question was whether you
had [16] a belief on a particular topic.

[17] Are you telling me that you do not [18]
know whether you have a belief on that
topic?

[19] MR. REINER: He gave you his [20]
testimony as to his own individual belief.

[21] MR. LINDSAY: Yes.

[22] MR. REINER: Now what is the next

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[1] question? Maybe I'm not clear. Why
don't you [2] ask another question,
please.

[3] MR. LINDSAY: Could you read the [4]
question and answer back.

[5] MR. REINER: Read the question again
[6] and the answer.

[7] (The reporter read the record as [8]
requested.)

[9] BY MR. LINDSAY:

[10] Q: And so, sir, in order to make sure
[11] that our record is clear, are you telling
me [12] that you do not know whether
you have a belief [13] or are you telling me
something about the [14] content of your
belief?

[15] A: I do not know if the phrase scalp
the [16] Cowboys is derogatory to anyone
else, other [17] than to myself.

[18] Q: Sir, you've said that the use of the
[19] phrase scalp the Cowboys is un-
necessary to [20] maintain the traditions
of the Washington [21] football team.

[22] Do you agree, sir, that the fight

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[1] song of the Washington football team
formerly [2] contained the phrase scalp
'um?

[3] A: I agree with that.

[4] Q: Was that part of the Washington [5]
football team's traditions?

[6] A: It was part of the song.

[7] Q: And at the time that it was part of a
[8] song, that was a song which the
Washington [9] football team wished to
have sung at its games; [10] is that correct?

[11] A: Would you repeat the question.

[12] (The reporter read the record as [13]
requested.)

[14] THE WITNESS: The song Hail to The
[15] Redskins has been played and sung at
Redskins [16] games, to the best of my
knowledge, since 1937.

[17] BY MR. LINDSAY:

[18] Q: Do you believe it was in-
appropriate [19] and unnecessary for the
Washington football [20] team to have
included the phrase scalp 'um in [21] its
fight song?

[22] A: I think it is inappropriate to

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[1] include it today.

[2] Q: Is your basis for believing it [3]
inappropriate today essentially the same
basis [4] as we have been discussing on
the use of the [5] phrase scalp the
Cowboys?

[6] MR. REINER: Object to the form of [7] the question. It's argumentative, Counsel.

[8] THE WITNESS: It is unnecessary.

[9] BY MR. LINDSAY:

[10] Q: Since counsel has suggested that the [11] question -

[12] MR. REINER: He answered the [13] question. I just made an objection for the [14] record, that's all. I didn't preclude him.

[15] BY MR. LINDSAY:

[16] Q: And I want to make sure that the [17] question and response is not one that is [18] stricken, so I will ask the question in as [19] non-argumentative a fashion as I believe [20] possible.

[21] Why do you believe it is [22] inappropriate today to include the phrase scalp.

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[1] 'um in the Washington football team's fight [2] song?

[3] A: Because I think that it is not [4] sensitive enough to our fans. I don't think [5] that it's necessary to have such a thing, and [6] the proof of that is that it is no longer in [7] our song and I'm afraid I'd have to read the [8] lyrics to see what has been substituted because [9] I don't recall at this time.

[10] Q: Do you have any personal knowledge, [11] sir, as to the circumstances surrounding the [12] decision of the Washington football team to [13] change the lyrics of its fight song?

[14] A: I don't know what you mean by [15] personal knowledge.

[16] Q: When was the most recent occasion on [17] which the Washington football team changed the [18] lyrics of its fight song?

[19] A: It was in the '70s, I believe.

[20] Q: Were you in any way associated with [21] the Washington football team at that time?

[22] A: No, I was not.

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[1] Q: So it would be fair to say that you [2] did not participate in any of the [3] decision-making toward changing the lyrics of [4] the song?

[5] A: That's correct.

[6] Q: And that you were not present during [7] any discussions pertaining to that [8] decision-making process?

[9] A: That's correct.

[10] Q: Was your father associated with the [11] Washington football team at that time?

[12] A: Yes.

[13] Q: Do you have any belief as to whether [14] he was involved in that

decision-making [15] process?

[16] A: What do you mean by belief?

[17] Q: Have you ever heard it said that your [18] father was involved in that decision-making [19] process?

[20] A: I've never heard that said.

[21] Q: Do you have any reason to believe [22] that your father was not involved in that

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[1] decision-making process?

[2] A: I don't know.

[3] (John K. Cooke Deposition [4] Exhibit No. 8 was marked for [5] identification.)

[6] BY MR. LINDSAY:

[7] Q: Sir, I'm showing you what has been [8] marked as Exhibit 8. I invite your particular [9] attention, sir, to the language that appears in [10] the box on the first page of Exhibit 8 which is [11] headed with the phrase Hail to The Redskins; do [12] you see that?

[13] A: I do.

[14] Q: Can you please read to yourself the [15] lyrics that are set forth in that box.

[16] (Witness examined document)

[17] THE WITNESS: Yes.

[18] BY MR. LINDSAY:

[19] Q: Do you agree that there was a time at [20] which the lyrics set forth in that box were, in [21] fact, the lyrics of the Washington team's fight [22] song?

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[1] A: It is my understanding that those are [2] the lyrics, but I don't know exactly if they [3] were the original lyrics of 1938.

[4] Q: Setting aside whether they were the [5] lyrics in 1938, you agree that there was some [6] time when those were the lyrics?

[7] A: I don't know. All I know is that it [8] says copyright 1938 by Leo Feist.

[9] Q: Who is Leo Feist?

[10] A: That's a copyright holder of Hail to [11] The Redskins song. I presume that this copy [12] from this magazine has copied the lyrics [13] correctly. I have no idea.

[14] Q: In the first stanza of those lyrics, [15] do you see the phrase "scalp 'um, swamp 'um, we [16] will take 'um big score"; do you see that [17] language?

[18] A: I do.

[19] Q: Sir, we've already discussed the [20] phrase scalp 'um, and so I invite your [21] attention to the second and third parts of [22] that, the swamp 'um, take 'um score.

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[1] Do you believe that that language is [2] derogatory?

[3] MR. REINER: Derogatory to whom? [4] It's a vague question.

[5] MR. LINDSAY: The witness has given [6] his understanding of the word derogatory and I [7] am asking the witness to respond using his [8] understanding.

[9] MR. REINER: In the context of this [10] song is your question? I'm just trying to get [11] it clear, because you asked a general question [12] is it derogatory. I'm just trying to get your [13] questions clear. I'm not trying to stop a [14] question, just what's your question.

[15] BY MR. LINDSAY:

[16] Q: Do you understand the question, sir?

[17] A: Would you repeat the question.

[18] MR. LINDSAY: Please read it back.

[19] (The reporter read the record as [20] requested.)

[21] THE WITNESS: It's not derogatory to [22] me.

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[1] BY MR. LINDSAY:

[2] Q: Do you believe it is derogatory to [3] anyone else?

[4] A: I don't know.

[5] Q: Do you believe it is appropriate for [6] the Washington team to use those lyrics today?

[7] A: No, I do not.

[8] Q: Why not?

[9] MR. REINER: I think it has been [10] asked and answered, Counselor, but you might [11] answer it again.

[12] MR. LINDSAY: It has not been asked [13] or answered.

[14] MR. REINER: I believe it has, sir, [15] but let's not argue on the record. Why don't [16] you answer it again.

[17] THE WITNESS: We are trying to be [18] sensitive to our fans and it is totally [19] unnecessary to have these kind of - or to have [20] these words in the song and we are trying to [21] adapt to the - to today.

[22] BY MR. LINDSAY:

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[1] Q: Are your views, then, the same with [2] respect to read 'um, weep 'um, touchdown?

[3] A: These phrases are not, are not [4] offensive to me.

[5] Q: Do you believe them to be offensive [6] to others?

[7] A: I don't know.

[8] Q: Do you believe it is appropriate for [9] the Washington football team to use those [10] lyrics today?

[11] MR. REINER: You're talking about the [12] specific lyrics which you just quoted before?

[13] MR. LINDSAY: Yes, sir.

[14] THE WITNESS: I do not object to [15] those particular lyrics.

[16] BY MR. LINDSAY:

[17] Q: Why is it, sir, that you believe the [18] phrase or words swamp 'um and take 'um big [19] score are inappropriate but that you do not [20] believe the words read 'um, weep 'um are [21] inappropriate?

[22] MR. REINER: Excuse me, Counselor.

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[1] May we have the testimony read back. I don't [2] believe that was the testimony of the witness, [3] so I'd like to have it read back.

[4] MR. LINDSAY: That's fine.

[5] (The reporter read the record as [6] requested.)

[7] MR. REINER: I don't believe the [8] witness testified that way, Counselor.

[9] MR. LINDSAY: Let me clarify that, [10] sir.

[11] BY MR. LINDSAY:

[12] Q: Do you, sir, believe that the words [13] swamp 'um, take 'um - excuse me, swamp 'um, we [14] will take 'um big score are inappropriate?

[15] A: Are inappropriate, did you say?

[16] Q: Yes, sir.

[17] A: I don't think that they are [18] inappropriate.

[19] Q: Sir, do you have an understanding of [20] the meaning of the word mimic?

[21] A: I have an understanding.

[22] Q: What is your understanding of that

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[1] word?

[2] A: It is to copy.

[3] Q: Do you agree that it also means [4] imitate?

[5] MR. REINER: The witness answered the [6] question, Counselor.

[7] MR. LINDSAY: Fine, I'll withdraw it.

[8] BY MR. LINDSAY:

[9] Q: Do you have an understanding of the [10] word imitate?

[11] A: Yes.

[12] Q: What is your understanding of that [13] word?

[14] A: To copy.

[15] Q: Do you have an understanding of the [16] word parody?

[17] A: Yes.

[18] Q: What is your understanding of the [19] word parody?

[20] A: My understanding of the word parody [21] would be to imitate with ridicule.

[22] Q: Do you believe the phrase swamp 'um,

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[1] we will take 'um big score imitates speech [2] patterns of native Americans?

[3] A: I don't know that.

[4] Q: Do you believe that it parodies [5] speech patterns of native Americans?

[6] A: I don't know that.

[7] Q: And when you say, sir, that you do [8] not know that, is that because you are not [9] familiar with speech patterns of native [10] Americans?

[11] A: That's correct.

[12] Q: Have you ever seen a movie which [13] depicted a native American?

[14] A: I have.

[15] Q: In any such movie did you hear words [16] ascribed to that native American that was so [17] depicted?

[18] MR. REINER: Excuse me, Counselor, [19] words used in the movies?

[20] MR. LINDSAY: Let me withdraw that.

[21] MR. REINER: Okay.

[22] BY MR. LINDSAY:

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[1] Q: In any of the movies that you saw, [2] did any of the native Americans have speaking [3] parts?

[4] A: I can't recall exactly. I presume [5] so.

[6] Q: Do you generally recall the speech [7] patterns used by native Americans - excuse me, [8] by the persons depicted as native Americans in [9] those movies?

[10] A: No.

[11] Q: Sir, have you ever heard anything [12] that you considered to be a parody of native [13] American language, excuse me, or of native [14] American speech patterns?

[15] MR. REINER: No foundation laid for [16] this, but go ahead and answer it, if you can.

[17] THE WITNESS: I don't know.

[18] BY MR. LINDSAY:

[19] Q: Sir, in the third stanza of the [20] lyrics in Exhibit 8 there is the phrase Braves [21] on the warpath; do you see that?

[22] A: I do.

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[1] Q: Do you consider that phrase [2] derogatory?

[3] A: No.

[4] Q: Do you consider it inappropriate?

[5] A: No.

[6] Q: Sir, when you hear the phrase Braves [7] on the warpath, what image does that conjure in [8] your mind?

[9] MR. REINER: Object to the question. [10] Go ahead and answer it.

[11] THE WITNESS: The image in my mind is [12] Washington Redskins in a two-minute drill, the [13] last quarter, going from one end zone into the [14] other end zone to score a touchdown and to win [15] the game and the world champion Superbowl [16] trophy.

[17] BY MR. LINDSAY:

[18] Q: Does the phrase Braves on the warpath [19] bring to your mind any images of native [20] Americans?

[21] A: No.

[22] MR. REINER: Objection. The witness

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[1] has given a full answer to a question. You may [2] answer it again, though.

[3] THE WITNESS: My answer is no.

[4] BY MR. LINDSAY:

[5] Q: Do you have an understanding of the [6] word Braves?

[7] A: Yes.

[8] Q: What is your understanding of the [9] word Braves?

[10] A: I would define that as men who are [11] courageous, who are brave.

[12] Q: In your understanding of the word [13] Braves, does the word refer in any way to [14] native Americans?

[15] MR. REINER: I believe the question [16] has been asked and answered, but go ahead, in [17] the context of this song.

[18] MR. LINDSAY: That was not the [19] question I asked.

[20] MR. REINER: Wait a minute, [21] Counselor. We've been talking about an exhibit [22] here. If you're starting to shift into other

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[1] things, you better notify the witness. Now [2] what are you talking about?

[3] MR. LINDSAY: I've asked the witness [4] for his understanding of the word Braves.

[5] MR. REINER: And he's given you [6] answers in response to a song as you have given [7] for a predicate in response to these questions. [8] Are you talking about the song or not? Please, [9] just put it in a reference.

[10] MR. LINDSAY: I disagree with the [11] characterization of my prior questions and the [12] witness' answers, but I believe that the record [13] will stand for itself.

[14] MR. REINER: I certainly do concur [15] with that, Counsel.

[16] BY MR. LINDSAY:

[17] Q: Do you have any understanding of the [18] word Braves in any context whatsoever, whether [19] it is in the

context of the Washington team's [20] fight song or any other context?

[21] **MR. REINER:** Object to the form of [22] the question. You may answer. It's a compound

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[1] question, besides, but you may answer, if you [2] can.

[3] **THE WITNESS:** You're asking for my [4] definition of the word Braves?

[5] **BY MR. LINDSAY:**

[6] **Q:** Yes, sir.

[7] **A:** My definition would be that it could [8] refer to native Americans; it could refer to [9] the verb to show courage, it could be used in a [10] poetic sense to refer to a football club [11] marching from one end zone to another in a [12] two-minute drill.

[13] **Q:** Is it your understanding, sir, that [14] as used in the Washington football team's fight [15] song, that the word Braves is intended to [16] suggest a connection with native Americans?

[17] **MR. REINER:** That has been asked and [18] answered. You may answer the question, if you [19] can.

[20] **THE WITNESS:** In this fight song it I [21] believe refers to the Washington Redskins [22] football club marching down the football field

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[1] to score points to win a game.

[2] **BY MR. LINDSAY:**

[3] **Q:** Sir, are you familiar with the word [4] denotation?

[5] **A:** I am familiar with the word.

[6] **Q:** And are you familiar with the word [7] connotation?

[8] **A:** I am familiar with the word.

[9] **Q:** And in your understanding, do you [10] agree that the word denotation - excuse me, [11] that the word Braves denotes the Washington [12] football team in the particular stage of play [13] that you've been describing?

[14] **MR. REINER:** In reference to Exhibit [15] Number 8, is that what you're talking about?

[16] **THE WITNESS:** Would you repeat the [17] question.

[18] (The reporter read the record as [19] requested.)

[20] **THE WITNESS:** The phrase Braves on [21] the warpath, fight for old D.C. refers to the [22] Washington Redskins team playing football to

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[1] move down the playing field to score and to win [2] the game.

[3] **BY MR. LINDSAY:**

[4] **Q:** And is it your testimony, sir, that [5]

the phrase Braves on the warpath as used in the [6] Washington fight song is not intended to [7] suggest any association with native Americans?

[8] **A:** This phrase to me, or stanza, as you [9] call it, refers to the Washington Redskins [10] being victorious on the playing field by [11] scoring a touchdown.

[12] **Q:** So are you saying, sir, that it is [13] not intended to suggest any association with [14] native Americans?

[15] **MR. REINER:** Object to the question. [16] It has been asked and answered, but you may say [17] what you wish.

[18] **MR. LINDSAY:** I move to strike the [19] answer to the prior question as non-responsive.

[20] **MR. REINER:** Now what's the question? [21] Let's have a question for the witness, please.

[22] **MR. LINDSAY:** And I ask that the

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[1] reporter read back the now pending question.

[2] (The reporter read the record as [3] requested.)

[4] **THE WITNESS:** The purpose of this [5] phrase is to describe the Washington Redskins [6] playing football and marching down the field to [7] score a touchdown to win a game.

[8] **MR. LINDSAY:** I move to strike the [9] answer as nonresponsive.

[10] **BY MR. LINDSAY:**

[11] **Q:** Are you able to answer my question, [12] sir, with a yes or no answer?

[13] **MR. REINER:** I believe the witness [14] has been responsive to giving you his views on [15] the meaning of the phrase as you asked the [16] question.

[17] Now, your next question is what, [18] please, just so I have it clear? What's the [19] question, pending question now?

[20] (The reporter read the record as [21] requested.)

[22] **MR. REINER:** You may answer.

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[1] (The reporter read the record as [2] requested.)

[3] **MR. REINER:** He already answered that [4] question. What's the pending question?

[5] (The reporter read the record as [6] requested.)

[7] **THE WITNESS:** I'm able to, but I [8] choose not to.

[9] **MR. REINER:** You gave an answer, [10] okay.

[11] **BY MR. LINDSAY:**

[12] **Q:** Sir, I want to understand the image [13] you have used of the Washington team in the [14] final two minutes of the

game.

[15] I take it that in the image that you [16] use, the members of the Washington team who are [17] actually on the field playing are wearing [18] helmets?

[19] **A:** They are.

[20] **Q:** And those are the helmets of the [21] Washington football team?

[22] **A:** Yes.

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[1] **Q:** And do the helmets contain any kind [2] of logo on them?

[3] **A:** They do.

[4] **Q:** And what logo do they contain?

[5] **A:** They are burgundy and gold, which is [6] really a yellow, and white and it has the logo [7] of the Washington Redskins with those same [8] colors on both sides of the helmet.

[9] (John K. Cooke Deposition [10] Exhibit No. 9 was marked for [11] identification.)

[12] **BY MR. LINDSAY:**

[13] **Q:** Sir, I am showing you what has been [14] marked as Exhibit 9 and I invite your attention [15] to the page that is Bates numbered 001067; do [16] you see that page?

[17] **A:** I do.

[18] **Q:** Do you see in the lower right-hand [19] corner a depiction of a football helmet?

[20] **A:** I do.

[21] **Q:** And I understand, sir, that this [22] particular copy is in black and white, so let

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[1] us set aside for the moment the colors that you [2] just used in your image.

[3] Other than the colors, sir, is the [4] logo that you have just described for us the [5] logo that is pictured in the lower right-hand [6] corner of page 1067?

[7] **A:** Yes.

[8] **Q:** And that is a logo, sir, that [9] contains feathers?

[10] **A:** It does.

[11] **Q:** Are those feathers that you describe [12] as Indian feathers?

[13] **A:** I don't know.

[14] **Q:** You've used the phrase Indian [15] feathers earlier in this deposition, sir; is [16] that correct?

[17] **A:** I don't know.

[18] **Q:** Sir, in responding to questions [19] concerning McDonald's, do you recall using the [20] words Indian feathers?

[21] **A:** I don't recall that.

[22] **Q:** Sir, there is a drawing within the

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[1] logo; do you see that?

[2] A: I do.

[3] Q: And that drawing is a head of a human [4] being, is it not?

[5] A: It is.

[6] Q: Is the human being depicted in that [7] logo a native American?

[8] A: It appears to be a native American, [9] an Indian wearing feathers.

[10] Q: That is, sir, the logo of the - [11] excuse me, that is a logo of the Washington [12] football team, is it not?

[13] A: It is.

[14] Q: And as executive vice president of [15] the Washington football team, you are familiar [16] with the logo of the team, are you not?

[17] A: I am.

[18] Q: Is there any doubt in your mind, sir, [19] that the human being head that is depicted in [20] the Washington logo is intended to be the head [21] of a native American?

[22] MR. REINER: Wait, wait, object.

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[1] It has been asked, it has been [2] answered specifically and this question is [3] argumentative.

[4] You may answer it.

[5] MR. LINDSAY: Sir, I obviously -

[6] MR. REINER: You may answer it.

[7] MR. LINDSAY: I do not wish to be [8] arguing with the witness.

[9] MR. REINER: But you certainly are, [10] sir.

[11] MR. LINDSAY: But the witness used in [12] his answer the phrase it appears to be and I [13] certainly wish to establish that there is no [14] doubt in this witness' mind that that is, in [15] fact, what it is.

[16] MR. REINER: I understand your [17] question. It's argumentative.

[18] You may answer the question.

[19] THE WITNESS: It is supposed to be a [20] native American.

[21] MR. LINDSAY: Counsel, it's noon, why [22] don't we take our lunch break. 1:15?

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[1] MR. REINER: Sure, 1:15.

[2] (Whereupon, at 12:05 p.m., a [3] luncheon recess was taken.)

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[1] AFTERNOON SESSION

[2] (1:20 p.m.)

[3] Whereupon,

[4] JOHN KENT COOKE [5] was recalled as the witness and, having been [6] previously duly sworn, was examined and [7] testified further as follows:

[8] EXAMINATION BY COUNSEL FOR PETITIONER

[9] CONTINUED

[10] BY MR. LINDSAY:

[11] Q: We are back after a lunch break.

[12] Sir, when we left we were discussing some of [13] the details of the image that is brought to [14] your mind by the fight song lyrics Braves on [15] the warpath, and I want to complete that line [16] of inquiry at this time.

[17] In this image that those lyrics bring [18] to mind, is this a home game?

[19] A: I beg your pardon?

[20] Q: In the image that these lyrics bring [21] to your mind, is this a home game?

[22] A: A home game?

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[1] Q: Yes, sir, as opposed to an away game?

[2] A: The image created by the Hail to the [3] Redskins lyrics doesn't matter where the team [4] is.

[5] Q: Sir, perhaps I should refresh your [6] recollection of where in the line of inquiry I [7] was, just to make sure that we are [8] understanding one other.

[9] You had testified this morning that [10] the particular phrase Braves on the warpath [11] brought to mind the image of the Washington [12] football team playing in the last two minutes [13] of a game marching from one end of the field to [14] another.

[15] (Discussion off the record)

[16] BY MR. LINDSAY:

[17] Q: Sir, that is the image that I am now [18] trying to ask you about, all right?

[19] A: You'll have to repeat that before my [20] Counselor interrupted us.

[21] MR. LINDSAY: Could you please repeat [22] it.

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[1] (The reporter read the record as [2] requested.)

[3] BY MR. LINDSAY:

[4] Q: Sir, with that image as to which you [5] testified this morning in mind, I want to ask [6] for a few more details.

[7] Is that moment in play that you have [8] described taking place on the home field?

[9] A: It could be wherever the song is [10] played and the Redskins are playing.

[11] Q: And is one of those instances playing [12] on the home field?

[13] A: Could be on the home field, yes.

[14] Q: And in that image, is the group that [15] you have described was the Redskins band [16] present?

[17] A: The Redskins band would be present if [18] they are playing in RFK stadium, yes.

[19] Q: And playing that song?

[20] A: They frequently play that song.

[21] Q: And in this image of yours, how are [22] the members of the band attired?

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[1] A: They are in their uniform and they [2] are usually in the stands during the game.

[3] Q: Does their uniform include any type [4] of headdress?

[5] A: Their uniform does include a [6] headdress, but when they are in the stands [7] playing, they don't wear the headdress.

[8] Q: Does this band ever perform half-time [9] shows?

[10] A: Rarely.

[11] Q: Sir, yesterday we had some questions [12] and answers concerning what the word Redskin or [13] Redskins means to you and I do not wish to [14] repeat the questions and answers that we had [15] yesterday, but I do have some follow-up [16] questions on that.

[17] Does the word Redskins as used in the [18] name of the Washington team in any way refer to [19] native Americans?

[20] A: To me, the Redskins name refers to [21] the professional football club known as the [22] Washington Redskins.

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[1] (John K. Cooke Deposition [2] Exhibit No. 10 was marked for [3] identification.)

[4] BY MR. LINDSAY:

[5] Q: Sir, I'm showing you what has been [6] marked as Exhibit 10. Will you please review [7] that document and tell me when you have [8] completed your review.

[9] (Witness examined document)

[10] THE WITNESS: I've finished reading [11] it.

[12] BY MR. LINDSAY:

[13] Q: Sir, do you recognize that document [14] as a press release of the Washington football [15] team?

[16] A: It is a statement.

[17] Q: Issued by -

[18] A: Issued, it is not a press release, [19] but it is a statement.

[20] Q: Issued by the Washington football [21] team?

[22] A: That's correct.

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[1] Q: And do you see, sir, that the initial [2] statement says the Washington Redskins were [3] renamed and so on; do you see that?

[4] A: Yes, I do.

[5] Q: And the next sentence reads the name [6] was never intended to offend anyone; do you see [7] that?

[8] A: I do.
[9] Q: And do you see in the third sentence [10] five lines down the phrase the name has [11] reflected positive attributes of the [12] American-Indian?
[13] A: That's correct.
[14] Q: Do you agree, sir, that the name that [15] is the subject of this press release is the [16] name the Washington Redskins - I'm sorry, [17] you've told me this wasn't a press release, [18] this statement?
[19] A: That's correct.
[20] Q: And so to you, sir, does the name [21] Washington Redskins mean anything about native [22] Americans?

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[1] A: The Washington Redskins are named [2] after or are associated with native Americans.
[3] Q: Sir, do you believe that the [4] Washington football team intends to honor [5] native Americans?
[6] A: I believe that the Washington [7] Redskins are to play football in the National [8] Football League and represent the Nation's [9] Capitol. In so doing, they, because of their [10] name, reflect the positive attributes of native [11] Americans.
[12] Q: Sir, do you believe that the name, [13] quote, "Washington Redskins," closed quote, [14] represents the finest things in the Indian [15] culture?
[16] A: I wouldn't say that, no.
[17] Q: You would not say that?
[18] A: No.
[19] Q: Have you ever said that?
[20] A: I don't know if I have. I don't [21] recall.
[22] (John K. Cooke Deposition

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[1] Exhibit No. 11 was marked for [2] identification.)
[3] (Witness examined document)
[4] BY MR. LINDSAY:
[5] Q: Have you now completed your review of [6] Exhibit 11?
[7] A: I have read the last two paragraphs [8] of Exhibit 11.
[9] Q: Do you agree that Exhibit 11 purports [10] to be a newspaper article?
[11] A: I agree with that.
[12] Q: From October 31, 1991?
[13] A: Yes.
[14] Q: Have you ever seen it before?
[15] A: I don't recall.
[16] Q: Do you see that you are quoted in the [17] lower right-hand corner?
[18] A: I do.
[19] Q: And that you are specifically quoted [20] as saying, "We are keeping the

name. We've had [21] it a long time, it represents the finest things [22] in the Indian culture?"

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[1] A: I see the quotes.
[2] Q: Did you, in fact, say that?
[3] A: I don't recall.
[4] Q: When you say that you do not [5] recall - let me back up.
[6] Do you deny having said that?
[7] A: I don't recall if I said it.
[8] Q: You have no recollection one way or [9] the other?
[10] A: That's correct.
[11] Q: Who was the purported author of the [12] article?
[13] A: It says here Leonard Shapiro, [14] Washington Post staff writer.
[15] Q: Did you ever write to Mr. Shapiro to [16] deny that you said that?
[17] A: I don't recall seeing this story.
[18] Q: And so is it fair to say that you [19] also do not recall ever writing to Mr. Shapiro [20] to deny the quotation?
[21] A: I would say that's equally fair to [22] say.

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[1] Q: I'm sorry?
[2] A: That is fair to say.
[3] Q: Now that you have seen this article, [4] does it in any way refresh your recollection as [5] to whether you have said on any occasion that [6] the name of the Washington Redskins represents [7] the finest things in the Indian culture?
[8] A: I think that I have said on occasion [9] that it represents fine things of the Indian [10] culture. Whether it is the finest things of [11] the Indian culture I have no idea.
[12] But it seems to me that the things [13] that we are talking about here are fine [14] attributes for any culture, at least that's my [15] opinion.
[16] Q: When you say represents fine things [17] of the Indian culture, on what do you base your [18] belief that the name represents anything at all [19] about Indian culture?
[20] A: I'm referring to the Exhibit Number [21] 10 that you've handed me and attributes of [22] dedication, courage and pride that are

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[1] specified in this statement.
[2] And, as I said, I think that that [3] would be fine attributes for any man or woman [4] or any nation or any culture to show those [5] characteristics of the human race.
[6] Q: And when you say fine things in the [7] Indian culture, are the matters that

you just [8] listed or the qualities that you just listed [9] the only things that you have in mind?

[10] A: No.
[11] Q: What else do you have in mind?
[12] A: I would say stamina, strength, [13] dignity, pride would be some other attributes.
[14] Q: Any others?
[15] A: Just at the spur of my - of the [16] moment. I'm sure there are many other [17] attributes that could be ascribed to the fine [18] qualities for any member of the human race.
[19] Q: Are there any qualities that you mean [20] when you say the fine things in the Indian [21] culture that are unique to Indian culture?
[22] A: Would you repeat the question.

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[1] (The reporter read the record as [2] requested.)
[3] THE WITNESS: I'm sorry, I don't [4] understand your question.
[5] BY MR. LINDSAY:
[6] Q: Sir, you've told me about a number of [7] qualities that you have said are fine qualities [8] for any human being; is that correct?
[9] A: I believe so.
[10] Q: And you've told me that these are the [11] factors and qualities that you currently recall [12] meaning when you have said the fine things in [13] the Indian culture; is that correct?
[14] A: They are fine things of any culture, [15] sir.
[16] Q: And my question to you, sir, is: Now [17] that you have listed for me qualities that you [18] believe are fine qualities for any culture, are [19] there qualities that you include in your [20] understanding of the fine things in the Indian [21] culture that are unique to that culture as [22] opposed to being qualities that you believe are

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[1] qualities for any human being?
[2] MR. REINER: Object to the form of [3] the question. You may answer.
[4] THE WITNESS: I think that there are [5] many attributes to the Indian culture that are [6] unique to them in respect to the things that [7] they have accomplished. Their artwork is [8] unique to them in California and the southwest. [9] I think some of their literature that has been [10] handed down is unique to them, is absolutely [11] beautiful. I think that they are known for [12] their artisanship, jewelry, which is unique to [13] them, a certain kind of jewelry. I don't mean [14] that they are the only ones that have jewelry, [15] but the jewelry that

some Indians make are [16] unique to them.

[17] There are, I'm sure, many other [18] examples, but again, on the spur of the moment, [19] that's all I can recall.

[20] Q: Sir, on what do you base your belief [21] that the factors that you have now listed are, [22] in fact, qualities of native Americans?

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[1] A: Are you talking about the qualities [2] that I have previously described like [3] dedication, courage and pride or are you [4] speaking of the unique things that Indians have [5] accomplished?

[6] Q: The unique.

[7] A: And so your question is?

[8] MR. LINDSAY: Would you please read [9] back the question.

[10] (The reporter read the record as [11] requested.)

[12] THE WITNESS: I have, in the past, [13] collected Indian rugs, Yokuts baskets. My [14] previous wife was very interested in Indian [15] jewelry, so I became aware of it.

[16] BY MR. LINDSAY:

[17] Q: Is that all?

[18] A: That's all I can recall at the [19] moment.

[20] Q: When you say you've collected Indian [21] rugs, from whom did you collect them?

[22] A: They were collected from Indians in

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[1] Arizona.

[2] Q: Did you have any personal involvement [3] in the collection - excuse me, in the process [4] of collecting?

[5] A: Did I choose the rugs; is that what [6] you mean? The answer is yes.

[7] Q: Where were you when you chose the [8] rugs?

[9] A: I lived on a ranch in California, but [10] I would travel to Arizona to visit my wife's [11] parents and I became very interested in Indian [12] culture, particularly in those rugs, and in the [13] Indian baskets by the Indians of California [14] near the area in which our ranch was located.

[15] Q: In the process of collecting these [16] Indian rugs, did you speak with any persons [17] whom you understood to be native Americans?

[18] A: I don't know if they were native [19] Americans or not, to be honest with you. I [20] don't know.

[21] Q: Did any of your conversations with [22] these people take place on reservation lands?

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[1] A: I don't - I can't answer that. It [2] has been quite a while ago.

[3] Q: Were any of these persons dressed in [4] a style that you considered to be [5] American-Indian style?

[6] A: They - most of the rugs that I [7] collected were purchased from dealers, some of [8] whom may or may not have been Indians.

[9] I did collect baskets and visit the [10] Talari Indian reservation and saw Indians [11] there.

[12] Q: Did you speak with any of them?

[13] A: Yes.

[14] Q: So you now recall, sir, that at some [15] point in your life you have spoken with native [16] Americans; is that correct?

[17] A: I have, yes.

[18] Q: Yesterday, sir, you were not able to [19] recall that you had spoken with native [20] Americans at some point in your life; do you [21] generally recall that?

[22] A: Yes, I do.

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[1] Q: Please describe for me the [2] circumstances in which you spoke with these [3] native Americans in connection with the basket [4] collecting process.

[5] A: Well I visited the Talari Indian [6] reservation, which is near Porterville, [7] California, and I was advised to visit a woman [8] on the reservation who was still making [9] baskets. I was advised by a fellow cattle [10] rancher from Porterville who was on the [11] advisory board I believe for California to help [12] the Indians on the Talari Indian reservation. [13] that this woman was still making baskets. She [14] was an old lady.

[15] So I visited her in the early '70s to [16] see if she had any baskets and if she was [17] making, continuing to make any baskets; and if [18] so, my intention was to buy some baskets from [19] her.

[20] She was very old, as I say, and she [21] didn't have any baskets and she was not making [22] any baskets. She was very friendly and she

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[1] understood why I wanted to get some baskets [2] because the baskets of the Yokuts Indians are [3] highly prized and are unique and the Yokuts [4] Indians are almost extinct.

[5] Q: Now that you have recalled this [6] instance in which you spoke with a native [7] American, does that refresh your recollection [8] as to any other occasions on which you may have [9] spoken with a native American?

[10] A: I don't know if she was a full blood [11] native American. I don't even know if

she was [12] a native American, but I spoke to this lady in [13] pursuit of some baskets. I was told that she [14] was a native American and I just assumed she [15] was a native American.

[16] Q: So at the time you spoke with her, [17] you believed she was -

[18] A: May I finish my answer, please?

[19] Q: Certainly, sir.

[20] A: Thank you. When I spoke to any [21] dealers about Indian rugs in Arizona, whether [22] they were on Indian reservations or not, I have

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[1] no idea.

[2] Q: So at the time you spoke with this [3] woman that you have been describing as an [4] elderly woman that you contacted in connection [5] with acquiring baskets, it was your belief at [6] that time that she was a native American?

[7] A: Yes, sir.

[8] Q: In your conversation with this woman, [9] did you at any point refer to her as a Redskin?

[10] A: I did not.

[11] Q: Why not?

[12] A: I addressed her by her name, which [13] unfortunately I cannot recall now. This is at [14] least 20 years ago, at least 20 years ago.

[15] Q: I understand, sir, that you did refer [16] to her by her name.

[17] My question is - excuse me, and that [18] you have also testified that you did not refer [19] to her in this conversation as Redskin; is that [20] correct?

[21] A: That's correct.

[22] Q: Why is it that you did not refer to

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[1] her as Redskin?

[2] MR. REINER: Object to the question.

[3] THE WITNESS: I answered her - or I [4] referred to her by the name that was given to [5] me, which I cannot remember now, other than the [6] fact it was not Mrs. Redskin.

[7] BY MR. LINDSAY:

[8] Q: Sir, in this conversation, did you [9] believe it was appropriate to address this [10] woman as a Redskin?

[11] MR. REINER: Wait, he just testified [12] that he didn't.

[13] MR. LINDSAY: That is correct, he has [14] testified that he didn't.

[15] BY MR. LINDSAY:

[16] Q: My question is not what you did, but [17] what you considered appropriate behavior.

[18] A: I addressed her by the name that was [19] given to me, which I think was very civil and [20] proper.

[21] Q: Is it your testimony, sir, that [22] addressing her as Redskin would not be civil

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[1] and proper?

[2] A: I think that it was improper to [3] address her by any other name other than her [4] name.

[5] Q: At any point after that conversation [6] did you -

[7] MR. LINDSAY: Could I have the last [8] question and answer, please.

[9] (The reporter read the record as [10] requested.)

[11] BY MR. LINDSAY:

[12] Q: Let me make sure I understand your [13] testimony, sir. Let us assume for the moment [14] that this woman whose name you cannot recall [15] was Mrs. Smith.

[16] Is part of your testimony that it [17] would, therefore, have been inappropriate to [18] call her Mrs. Jones?

[19] A: Yes.

[20] Q: And that is because that is not her [21] name?

[22] A: That's right.

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[1] Q: Is it also your testimony that it [2] would not have been appropriate to call her [3] Redskin?

[4] A: I knew her name. She was expecting [5] me. I arrived and I called her by her name. [6] She called me by my name.

[7] Q: Do you think, sir, that it would have [8] been rude in this conversation to call her [9] Redskin?

[10] A: I'm telling you what took place, sir, [11] not what might have taken place, but what [12] actually took place, as I recollect it today, [13] well over 20 years ago. And I showed that [14] woman the utmost respect that I could at the [15] time, whatever her name was.

[16] Q: Are you saying that addressing her by [17] her name shows respect, but addressing her as [18] Redskin does not show respect?

[19] A: I'm telling you what I did.

[20] MR. REINER: Counselor, we have gone [21] far enough on this. The witness has testified [22] fully and completely. He's testified more than

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[1] one time what happened. You're being [2] argumentative.

[3] I instruct the witness not to answer [4] any further questions that are argumentative of [5] that type. But you may ask any other questions [6] along - about this relationship that Mr. Cooke [7] had with this lady.

[8] BY MR. LINDSAY:

[9] Q: Sir, you have said that calling this [10] woman by her name showed respect; is that [11] correct?

[12] A: I respected the woman and I called [13] her by her name and that shows the respect that [14] I had for this woman.

[15] Q: Was any part of your reason for not [16] addressing her as Redskin due to the fact that [17] you believed it would be rude or improper to do [18] so?

[19] MR. REINER: Object to the form of [20] the question. The question is argumentative. [21] The witness has many times answered this [22] question. You may answer it again. Would you

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[1] read the question back.

[2] THE WITNESS: You want me to answer [3] that question?

[4] MR. REINER: Again.

[5] THE WITNESS: I knew the lady's name, [6] she was expecting me, I gave her my name and I [7] spoke her name.

[8] BY MR. LINDSAY:

[9] Q: Sir, have you ever told anyone else [10] about having purchased - excuse me, about [11] having attempted to purchase a basket from this [12] woman?

[13] A: Yes.

[14] Q: Whom have you told?

[15] A: I don't recall.

[16] Q: When did those conversations take [17] place?

[18] A: I don't recall.

[19] Q: In any of those conversations did you [20] refer to this woman as a Redskin?

[21] A: I referred to the woman on those [22] occasions as best as I could recall as an

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[1] Indian on the Talari Indian reservation and the [2] story that I had heard about baskets still [3] being made by this lady. But she was - she [4] had stopped making the baskets because she was [5] too old.

[6] Q: Did you believe that referring to [7] this woman as an Indian was in any way [8] disrespectful?

[9] A: In my description?

[10] Q: Yes, sir.

[11] A: No, not at all.

[12] Q: Why did you use the word Indian [13] instead of the word Redskin?

[14] MR. REINER: Object to the form of [15] the question. You may answer.

[16] THE WITNESS: Because I refer to [17] native Americans as native Americans and as [18] Indians.

[19] BY MR. LINDSAY:

[20] Q: And - I'm sorry, were you -

[21] A: It's interchangeable, in my usage.

[22] Q: Do you ever refer to Indians or

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[1] native Americans as Redskins?

[2] A: No.

[3] Q: Why not?

[4] A: Because I refer to them as native [5] Americans or Indians.

[6] Q: I understand that you refer to these [7] persons as native Americans or Indians.

[8] MR. REINER: Excuse me, you're [9] talking about this lady, still? I mean I want [10] to just get it in context. Are you talking [11] about this lady, still?

[12] MR. LINDSAY: No, the witness has [13] testified more generally at this point.

[14] MR. REINER: Okay, I just wanted to [15] know, all right.

[16] BY MR. LINDSAY:

[17] Q: And I understand, sir, that you [18] choose to use those words to describe such [19] persons.

[20] Other than the availability of the [21] words native American and Indian, is there any [22] reason why you choose not to use the word

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[1] Redskin to describe such persons?

[2] A: I prefer to use the names [3] American-Indian or Indian.

[4] Q: Why is it that you prefer to use [5] those words?

[6] A: It's just the way it is. That's what [7] I call them, which is what your question was.

[8] Q: Is the reason that you chose not to [9] use the word Redskin in any way related to the [10] fact that the word Redskin is offensive to [11] native Americans?

[12] MR. REINER: Object to the question. [13] No foundation for it has been laid. It's [14] argumentative. It calls for supposition. I'll [15] let the witness answer anyway.

[16] Why don't you read the question back.

[17] (The reporter read the record as [18] requested.)

[19] THE WITNESS: I use the name [20] American-Indian or Indian because that's how I [21] refer to Indians, unless they are, of course of [22] a specific tribe, Iroquois, Navajo, the Yokuts,

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[1] as some examples.

[2] Secondly, I don't know that the name [3] Redskin is offensive to Indians generally [4] speaking. I don't know that.

[5] BY MR. LINDSAY:

[6] Q: Sir, if a dictionary states that the [7] word Redskin is often offensive, do you have [8] any reason to disagree with that?

[9] MR. REINER: Let's get a time frame, [10] please, Counselor.

[11] MR. LINDSAY: Today.

[12] MR. REINER: Today's dictionaries. [13] Do you have any knowledge?

[14] THE WITNESS: I have no knowledge on [15] the subject of what dictionary knows about what [16] Indians believe in and if, in fact, that all [17] Indians believe what the Webster or Oxford [18] dictionary or any other dictionary states. I [19] have no knowledge to that effect.

[20] BY MR. LINDSAY:

[21] Q: If a linguist testifies in this [22] matter that the word Redskin is an offensive

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[1] usage, do you have any reason to disagree with [2] that?

[3] A: I'm not a linguist.

[4] MR. REINER: Object to the form of [5] the question. Argumentative. It has a [6] supposition that no foundation has been laid [7] for. You may answer the question.

[8] THE WITNESS: All I know is how I [9] refer to native Americans and how I have [10] referred to native Americans. I don't know [11] what any linguist is going to do. I do not [12] know what the Indians are going to do. All I [13] know is what I have done.

[14] BY MR. LINDSAY:

[15] Q: And so, sir, is the answer to my [16] question that you have no basis to disagree [17] with a linguist who testifies that the word [18] Redskin is an offensive usage?

[19] MR. REINER: Objection. Do not [20] answer the question. It's argumentative. [21] You're harassing this witness, in my view, [22] Counselor, and I'm not going to permit him to

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[1] answer that question.

[2] You get your ruling, if you wish. [3] You may disagree with my characterizations, I [4] understand that, Counselor, but that's my [5] instructions to the witness.

[6] BY MR. LINDSAY:

[7] Q: Sir, I will ask you whether you are [8] able to answer my question yes or no and to [9] facilitate that, I will now ask the reporter to [10] read back the question. When she has completed [11] reading back the question, would you please [12] tell me whether you are able to answer that [13] question yes or no.

[14] (The reporter read the record as [15] requested.)

[16] THE WITNESS: I cannot answer that [17] question yes or no, if that's the

question.

[18] BY MR. LINDSAY:

[19] Q: Is there some part about that [20] question that is giving you difficulty?

[21] A: Which question?

[22] Q: Sir, let me restate the question and

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[1] make sure we are in agreement as to the [2] question I'm asking you.

[3] If a linguist testifies in this [4] matter that the word Redskin is an offensive [5] usage, do you have any basis to disagree with [6] that?

[7] MR. REINER: Object.

[8] MR. LINDSAY: That is -

[9] MR. REINER: Is that the question?

[10] BY MR. LINDSAY:

[11] Q: That is the question to which I am [12] trying to determine whether you are able to [13] answer yes or no.

[14] Do you understand the question that [15] is the predicate of this inquiry?

[16] MR. REINER: I don't think that's a [17] question that's appropriate to a fact witness [18] here. I think you're making a question based [19] upon a hypothetical which has no basis at this [20] stage.

[21] I think you're asking this witness to [22] give an opinion as an expert in languages. I

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[1] don't think that's appropriate. To ask this [2] witness to say yes or no to a question of when [3] did you stop beating your wife last is [4] improper, in my view, and this is a similar [5] type of question. I just don't think it's [6] proper for this witness.

[7] I am not going to let him answer that [8] question, other than how he's previously [9] responded and that's the end of it. So don't [10] answer any more about that question.

[11] BY MR. LINDSAY:

[12] Q: Now, sir, to make sure that I have [13] asked the question in a fashion that eliminates [14] at least one of your counsel's objections, I [15] wish to ask another question.

[16] Do you, yourself, view the word [17] Redskin insofar as it refers to native [18] Americans as an offensive usage?

[19] MR. REINER: You may answer that.

[20] THE WITNESS: Do I view it as [21] offensive; is that the question?

[22] BY MR. LINDSAY:

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[1] Q: Yes, sir.

[2] A: The word Redskin?

[3] Q: As used to refer to native Americans.

[4] A: I don't know.

[5] Q: When you say "I don't know," are you [6] telling me, sir, that you hold no belief as to [7] whether the word Redskin, when used to refer to [8] native Americans, is offensive?

[9] A: I don't know if it is offensive to [10] native Americans. I just simply don't know, [11] sir.

[12] Q: Now, sir, setting aside whether the [13] word Redskin as used to refer to native [14] Americans is offensive to one or more [15] American-Indians, is the word Redskin, as used [16] to refer to native Americans, offensive to you, [17] personally?

[18] A: To me the word Redskin would be a [19] member of a football club and the Redskins is [20] the club itself, the football club. That's the [21] sole use of that word, as far as I'm concerned.

[22] Q: When you say, sir, that that is the

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[1] sole use of the word as far as you are [2] concerned, what do you mean?

[3] A: Just what I said.

[4] Q: That that is the only meaning that [5] the word Redskin can have?

[6] A: I didn't say that.

[7] Q: Then, sir, apparently I do not [8] understand what you are trying to tell me and I [9] ask that you rephrase.

[10] MR. REINER: No, sir. You ask [11] questions. You asked a very specific question. [12] He gave you an answer.

[13] Why don't you read back the question [14] and answer.

[15] MR. LINDSAY: I would like them read [16] back.

[17] (The reporter read the record as [18] requested.)

[19] BY MR. LINDSAY:

[20] Q: When you say, sir, that that is the [21] sole use of the word as far as you are [22] concerned, do you mean that the word Redskin

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[1] does not accurately describe native Americans?

[2] A: I don't know.

[3] Q: You don't know whether that's what [4] you mean or you don't know whether that -

[5] A: I don't know if it does describe [6] native Americans.

[7] MR. LINDSAY: With respect to the [8] second to the last question which was read [9] back, I move to strike the witness' answer as [10] nonresponsive.

[11] BY MR. LINDSAY:

[12] Q: Sir, does the Washington football [13] team have any persons on its staff

whom it [14] considers experts with respect to native [15] Americans or their history or culture?

[16] A: Not that I know of.

[17] Q: Does the Washington football team [18] have any outside consultants that it considers [19] experts with respect to native Americans or [20] their history or culture?

[21] A: No.

[22] Q: Has the Washington football team ever

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[1] had on its staff any persons whom it considers [2] to be experts with respect to American-Indians [3] or their history or culture?

[4] A: Not that I'm aware of.

[5] Q: Has the Washington football team ever [6] retained the services of a person whom it [7] considered expert with respect to [8] American-Indians or their history or culture?

[9] A: Not that I'm aware of.

[10] Q: Have you, yourself, ever consulted [11] any person whom you considered expert with [12] respect to American-Indians, their history or [13] their culture?

[14] A: Not that I'm aware of, no.

[15] Q: Sir, you have described some items [16] that you personally own, including Indian rugs [17] and I believe you said Indian baskets; is that [18] correct?

[19] A: That's correct.

[20] Q: Are there any other items that you [21] personally own that you identify as being [22] American-Indian items?

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[1] A: By American-Indian items, I presume [2] you mean made by American-Indians or purported [3] to be made by American-Indians; is that [4] correct?

[5] Q: Let's start with that, sir.

[6] A: I don't think so. I think that's it.

[7] Q: To ask the follow-up question, sir, I [8] want to make sure that I have covered [9] everything that you consider to be an [10] American-Indian item.

[11] It is possible, sir, to fashion [12] something that looks like a tomahawk but is not [13] actually made by native Americans and does not [14] purport to have been made by native Americans; [15] is that correct?

[16] MR. REINER: Now you're asking his [17] opinion now? What are you asking?

[18] MR. LINDSAY: I'm just asking whether [19] he agrees with that statement.

[20] THE WITNESS: I think that's [21] possible.

[22] BY MR. LINDSAY:

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[1] Q: Now, if we expand our definition of [2] American-Indian items to include items that are [3] not made by native Americans and do not purport [4] to be made by native Americans, but at least in [5] your mind resemble items that are made by or [6] purport to be made by native Americans, are [7] there any additional items that you know of?

[8] MR. REINER: Other than what he's [9] testified to?

[10] MR. LINDSAY: Other than what you [11] have already testified to.

[12] THE WITNESS: I cannot recall any, [13] no.

[14] BY MR. LINDSAY:

[15] Q: Setting aside whether you personally [16] owned them, are there any American-Indian items [17] in your office at the Washington football [18] organization?

[19] A: Not that I'm aware of.

[20] Q: The Washington football team has [21] corporate offices?

[22] A: Yes.

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[1] Q: Where are those located?

[2] A: They are located at Redskin Park in [3] Ashburn, Virginia.

[4] Q: What persons have offices there?

[5] A: The offices are the administrative [6] staff, the coaching staff, scouting staff. [7] There are also offices of the heads of [8] different departments like video, training, [9] weight department, equipment department.

[10] Q: Is there also a visitors area?

[11] A: Yes, there's a reception area.

[12] Q: I would like to break my question [13] down into two parts, sir.

[14] First, in the visitors area, are [15] there any items that you consider to be [16] American-Indian items?

[17] MR. REINER: As defined before?

[18] MR. LINDSAY: Yes, sir.

[19] THE WITNESS: No.

[20] BY MR. LINDSAY:

[21] Q: Now, sir, with respect to the other [22] portions of the Washington team's offices,

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[1] other than the visitors area, are there any [2] items that you consider to be American-Indian [3] items?

[4] A: No.

[5] Q: Are there any eagle feathers?

[6] A: I don't know.

[7] Q: Are there any tomahawks?

[8] A: No.

[9] Q: Are there any Indian headdresses?

[10] A: There is one - I beg your pardon, [11] there is one headdress there. Now whether it's [12] made by native Americans or not, I don't know.

[13] Q: Are there any peace pipes?

[14] A: No.

[15] Q: Are there - sir, I will make the [16] assumption that there are no actual human [17] scalps in those offices; is that a fair [18] assumption?

[19] MR. REINER: Why don't you ask a [20] direct question.

[21] BY MR. LINDSAY:

[22] Q: Are there any human scalps in those

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[1] offices other than is currently attached to [2] living human beings?

[3] MR. REINER: Excuse me, read the [4] question back again.

[5] MR. LINDSAY: Let me rephrase it.

[6] BY MR. LINDSAY:

[7] Q: Would it be fair to say, sir, that [8] the only scalps in the Washington football [9] team's offices are those that are still [10] integral parts of human bodies?

[11] A: I think it would be fair to say that.

[12] Q: Are there any imitation scalps in the [13] Washington football team's offices?

[14] A: No.

[15] Q: Are there any paintings of [16] American-Indians?

[17] A: No.

[18] Q: Are there any photographs of [19] American-Indians?

[20] A: You mean, I gather, on the walls on [21] display?

[22] Q: Sure.

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[1] A: We have a - the Redskin logo is on [2] the wall in a few places. But other than that, [3] there are no others.

[4] Q: Are there any photographs of persons [5] dressed in what you consider to be native [6] American costume?

[7] A: No.

[8] Q: Are there any drawings of native [9] Americans?

[10] A: There are some lithographs in one of [11] the offices.

[12] Q: In whose office, sir?

[13] A: It's in Bobby Mitchell's office.

[14] Q: Who is Bobby Mitchell?

[15] A: He is the assistant general manager.

[16] Q: Is Bobby Mitchell a native American?

[17] A: No.

[18] Q: Are there any cartoons of [19] American-Indians?

[20] A: No.

[21] Q: Are there any statutes of [22] American-Indians?

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[1] A: There is a cigar store Indian, but [2] that's a broad description of the statute, I [3] presume.

[4] Q: Where within the Washington team's [5] offices is this statute located?

[6] A: The cigar store Indian is out in [7] front of my office.

[8] Q: Is that in a hallway outside your [9] office?

[10] A: Yes. Yes.

[11] Q: When you describe it as a cigar store [12] Indian, what do you mean?

[13] A: It's a wooden carving of an Indian [14] holding cigars. It is about five feet to six [15] feet tall. It's painted and it was presented [16] to George Preston Marshall, the previous owner [17] of the Redskins, I think in 1937 when the team [18] moved from Boston to Washington.

[19] Q: Do you know who presented it to him?

[20] A: I don't know that.

[21] Q: Do you have any understanding of who [22] presented it to him?

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[1] A: No, I don't.

[2] Q: When you say, sir, that this cigar [3] store Indian is holding cigars, are the cigars [4] that you refer to actually a portion of the [5] statute?

[6] A: It's all carved together, yes.

[7] Q: Do you believe, sir, that this cigar [8] store Indian honors native Americans?

[9] A: I don't know.

[10] Q: Who has made the decision to keep [11] this cigar store Indian in the Washington [12] football team's offices?

[13] A: I did.

[14] Q: In making that decision, did you [15] intend to honor native Americans?

[16] A: That statute or cigar store Indian is [17] part of the tradition of the history of the [18] Washington Redskins. It was presented, as I [19] said, to George Marshall, I'm told, in 1937, [20] and it has remained in the Washington Redskin [21] offices since then. We've had different [22] offices over the years.

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[1] Q: And in making the decision to keep it [2] there, did you intend to honor native [3] Americans?

[4] A: I think it shows respect to native [5] Americans, yes, part of our tradition.

[6] Q: Have you ever seen any other cigar

[7] store Indians?

[8] A: Yes, I have.

[9] Q: Do you believe that cigar store [10] Indians generally honor native Americans?

[11] A: I think the purpose of the cigar [12] store Indians, frankly, was originally to sell [13] cigars. Since then, they have become part of [14] the folk art of the United States. They are [15] highly prized artifacts.

[16] Q: And do you have a view as to whether [17] cigar store Indians honor native Americans?

[18] A: I don't know if - I can't answer [19] that question.

[20] MR. LINDSAY: This is probably a good [21] time for a break.

[22] (Discussion off the record)

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[1] MR. LINDSAY: Before we continue with [2] the deposition, in the interest of avoiding a [3] number of questions that would otherwise be [4] propounded to this witness, Mr. Reiner and I [5] have had a discussion off the record and it has [6] been agreed that neither side will object as to [7] the authenticity of documents produced by a [8] party in this litigation in the course of the [9] discovery process.

[10] With respect to foundation, it is my [11] understanding that the parties have further [12] agreed that if a document purports to have been [13] written by a party to this litigation and has [14] been produced in this litigation, the parties [15] agree that foundation for such documents is [16] established, subject to objections of hearsay [17] within hearsay and further subject to any [18] relevance objections.

[19] And I will add the further proviso [20] and ask Mr. Reiner whether you will agree with [21] this, that in the event either party lists a [22] document which has been produced by a party -

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[1] lists such a document on its exhibit list in [2] this matter or otherwise attempts to offer it [3] into evidence which purports to have been [4] written by a producing party, the producing [5] party who objects to the use of that document [6] will notify the opposition and the parties will [7] attempt to resolve whatever difference they may [8] have.

[9] Is that agreeable, Mr. Reiner?

[10] MR. REINER: Yes, I'm willing to [11] stipulate to that if you will.

[12] MR. LINDSAY: Okay.

[13] MR. REINER: So stipulated?

[14] MR. LINDSAY: So stipulated.

[15] MR. REINER: Okay, fine.

[16] BY MR. LINDSAY:

[17] Q: Sir, over the years the Washington [18] football team has collected a number of [19] newspaper articles and cartoons pertaining to [20] the Washington football team; is that correct?

[21] A: That is correct.

[22] Q: What has been the Washington football

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[1] team's purpose in doing so?

[2] A: To keep a record of the press' [3] reports of our operation and over a period of [4] time, provide a record of the history of the [5] Washington Redskins.

[6] Q: Why has the Washington football team [7] wished to do that?

[8] A: It's generally done in the [9] professional sports business. The purpose of [10] it is to provide background information for the [11] press who might want to find out if a player [12] played for the Redskins, how well he did, how [13] well the team did.

[14] (John K. Cooke Deposition [15] Exhibit No. 12 was marked for [16] identification.)

[17] BY MR. LINDSAY:

[18] Q: Sir, I have placed before you what [19] has been marked as John K. Cooke Exhibit 12 and [20] I will represent to you, sir, that the pages [21] included within Exhibit 12 have been produced [22] to us by the Washington football team in this

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[1] matter.

[2] I would like to go over a number of [3] the pages with you, and let us begin with the [4] first page which bears number S0004035.

[5] Do you see that that picture - first [6] of all, do you see the picture before you?

[7] A: I do.

[8] Q: And in the center of the picture [9] toward the top do you see the phrase today's [10] game?

[11] A: Yes, I do.

[12] Q: And below that, do you see the word [13] Redskins?

[14] A: Yes.

[15] Q: First of all, have you ever seen this [16] picture before?

[17] A: No, I don't recall it.

[18] Q: As you look at this picture today, [19] sir, is it your perception that the figure in [20] the left is a native American?

[21] A: I think in this drawing my perception [22] today is that the figure on the left represents

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[1] the Washington Redskins about to play the [2] Detroit Lions and the following week will play [3] the Chicago Bears.

[4] This is done - this was drawn I [5] presume for the Washington Star in 1943, it [6] looks like.

[7] Q: When you say, sir, that the figure at [8] the left represents the Washington football [9] team, I take it that you don't mean that it is [10] a realistic drawing of either the team or any [11] of its individual members?

[12] A: I would say that would be correct.

[13] Q: Sir, I'm going to ask a number of [14] questions now about the figure on the left.

[15] Do you agree that in one hand the [16] figure is holding a tomahawk?

[17] A: Yes.

[18] Q: And in the other hand is the figure [19] holding a knife of some kind?

[20] A: Yes.

[21] Q: And is the figure wearing a loin [22] cloth?

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[1] A: Yes.

[2] Q: Would you describe that loin cloth as [3] being what you understand to be one type of [4] native American dress?

[5] A: It's obviously something that this [6] cartoonist, can't quite read his name, it looks [7] like Derryman or something like that, maybe [8] Berryman. My copy has the top half of his name [9] obliterated.

[10] Q: As does mine, sir. I apologize, but [11] that's the fashion in which it was produced to [12] us.

[13] MR. REINER: Excuse me, is that the [14] first fellow who wrote the article or is that [15] the artist? I note there's a signature in the [16] lower right hand -

[17] THE WITNESS: It looks like the same [18] thing here, Jim Berryman.

[19] MR. REINER: Maybe it's the same, I [20] don't know. Okay.

[21] BY MR. LINDSAY:

[22] Q: As you view the figure in the left,

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[1] do you believe it to be a cartoon figure of a [2] native American?

[3] A: I believe that that drawing is a [4] cartoon representing the Washington Redskins [5] team as this artist perceived it playing the [6] Detroit Lions as represented by a lion with the [7] upcoming game represented by a bear.

[8] Q: What is the figure at the right?

[9] A: Figure on the right is a lion.

[10] Q: And you say that, sir, because the [11] drawing appears to resemble what in your [12] understanding a lion looks like; is that [13] correct?

[14] A: Right.

[15] Q: Now looking again at the figure on [16] the left, are you able to describe the

figure [17] as resembling anything that exists in the [18] physical world?

[19] A: Well it is a cartoon. It's an [20] exaggeration of a drawing of an Indian which in [21] turn I believe in this drawing represents the [22] Washington Redskins, as the lion represents the

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[1] Detroit Lyons.

[2] Q: Sir, the document appears to bear a [3] date of 1943, and you have no reason to [4] disagree with that date; is that correct?

[5] A: I have no idea.

[6] Q: Is the figure at the left disparaging [7] today?

[8] A: I don't know.

[9] Q: Is it insulting?

[10] A: I don't know. To whom?

[11] Q: Are you, yourself, personally [12] offended by the drawing?

[13] A: I interpret this drawing as a cartoon [14] showing the game about to be played the week of [15] approximately November 14, 1943, the Washington [16] Redskins against the Detroit Lions with the [17] upcoming game against the Chicago Bears.

[18] The purpose of it is for the, I [19] presume, to publicize the upcoming games that [20] year in 1943. I would think that would be the [21] sole purpose of this drawing.

[22] Q: You have described, sir, that you

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[1] have the right to prior approval of a certain [2] number of usage of Washington football team [3] trademarks and images and advertising; is that [4] generally correct?

[5] MR. REINER: Wait a minute, this [6] appears to be something out of a newspaper. [7] There's no foundation laid that this has [8] anything to do with the club. It could be a [9] newspaper.

[10] THE WITNESS: Well it is.

[11] MR. REINER: So I don't think that's [12] a fair question.

[13] MR. LINDSAY: I haven't asked him a [14] single question -

[15] MR. REINER: Lay a foundation, if you [16] wish.

[17] MR. LINDSAY: - about this now.

[18] MR. REINER: Well you made a [19] statement about it which I think is not a fair [20] statement -

[21] MR. LINDSAY: The statement was not [22] about -

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[1] MR. REINER: - as a predicate to a [2] question to this witness.

[3] MR. LINDSAY: The statement was not

[4] about this exhibit. The statement was about [5] the witness' prior testimony and I simply want [6] to make sure that I understood it.

[7] MR. REINER: The witness' prior [8] testimony was about those things which they [9] permit people to do under an agreement with [10] them to promote the club, such as McDonald's, [11] not something out of a newspaper. That's not [12] been his prior testimony.

[13] BY MR. LINDSAY:

[14] Q: Do you agree with your counsel's [15] statement, sir, that with respect to [16] advertising, such as that of McDonald's, you [17] have the right of prior approval for the use of [18] the Washington Redskins name, trademarks and [19] otherwise image of the Washington team; is that [20] correct?

[21] A: Yes, I do.

[22] Q: As you sit there today, sir, if an

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[1] advertiser submitted a drawing of the figure on [2] the left for your prior approval in [3] advertising, would you approve it?

[4] A: No.

[5] Q: Why not?

[6] A: Because I don't think that this is [7] representing the Washington Redskins. This is [8] an editorial cartoon and I would not approve [9] this today to be used in any form of [10] advertising or promotion for the Washington [11] Redskins.

[12] Q: Do you also have editorial control [13] over the programs and yearbooks of the [14] Washington football team?

[15] A: We do.

[16] Q: If you were presented a drawing with [17] the figure on the left in Exhibit 12, first [18] page, for inclusion in the Washington football [19] team's programs or yearbooks, would you approve [20] that usage?

[21] A: No, I would not.

[22] Q: Why not?

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[1] A: Because I don't think it's [2] appropriate in this day and age.

[3] Q: And when you say that it is not [4] appropriate in this day and age, what do you [5] mean?

[6] A: If this was an advertisement, now [7] this is a hypothetical I think you've gotten me [8] into, but if this was an advertisement, I would [9] object to it because it would be totally [10] unnecessary and it does not portray the club as [11] we would like to have it portrayed, which I [12] have previously described to you in prior [13] testimony.

[14] Q: Do you believe that the drawing of

[15] the figure on the left is reserved and
[16] tasteful?

[17] A: No, I don't think it is reserved and
[18] tasteful.

[19] MR. REINER: May I just ask a [20]
question, Counsel, is this the entire page
from [21] the newspaper?

[22] MR. LINDSAY: This is what you

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[1] produced to us, sir.

[2] MR. REINER: No, no. You copied [3]
things at our offices from the club that
were [4] in large books. Is this what was
copied from a [5] larger page from the
newspaper? That's all I'm [6] trying to
establish.

[7] MR. LINDSAY: I have no personal [8]
knowledge -

[9] MR. REINER: Okay.

[10] MR. LINDSAY: - of this. My only [11]
knowledge is that the document bears a
Bates [12] number indicating that the
document was [13] produced to us by
your client.

[14] MR. REINER: But you have to [15]
understand, just so that you understand,
the [16] whole newspapers were pro-
duced and in large [17] volumes and they-
parts of them were copied. [18] And the
copying was done, I understand that.

[19] But I'm just saying, this is not the [20]
whole page of the newspaper. I think
that [21] should just be clear on the
record.

[22] MR. LINDSAY: Sir, I agree that the

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[1] first page of Exhibit 12 is not the
complete [2] page of a newspaper.

[3] MR. REINER: Would that be true of [4]
all the other pages, so I don't have to go
[5] through this with you.

[6] MR. LINDSAY: Well some don't pur-
port [7] to be pages out of a newspaper.

[8] MR. BAIRD: Jack, the entire [9] news-
papers were not produced. There were
[10] scrapbook containing clippings from
newspapers [11] that are glued into
scrapbooks. So you're [12] correct that
that particular page doesn't [13] include
everything on the scrapbook page, but
[14] we were never given the entire
newspaper.

[15] MR. REINER: You were just given a
[16] one page of where this would have
appeared; is [17] that correct?

[18] MR. BAIRD: That's right.

[19] MR. REINER: All right, okay. All [20]
right. I just wanted to make sure what we
are [21] talking about here. All right.

[22] BY MR. LINDSAY:

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[1] Q: Sir, would you turn to the second [2]
page of Exhibit 12.

[3] Do you see, sir, the large-ish figure [4]
toward the left of the page?

[5] A: I do.

[6] Q: Do you see that in one hand the [7]
character is holding a bow and arrows?

[8] A: Yes.

[9] Q: And do you see that the figure is [10]
also wearing a loin cloth?

[11] A: I do.

[12] Q: And do you see that the figure also
[13] is wearing on its head a feather?

[14] A: Yes.

[15] Q: Have you ever seen this page
before?

[16] A: No, I don't recall this.

[17] Q: If a drawing were submitted for
your [18] approval for inclusion in the
Washington [19] football team program
or yearbooks today, would [20] you
approve this drawing?

[21] MR. REINER: Wait a minute, [22] ob-
jection. I don't think this came from a

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[1] Washington Redskins yearbook or I'm
fairly sure [2] it did not.

[3] MR. LINDSAY: I have not said that it [4]
did.

[5] MR. REINER: Okay, but the [6] im-
plication is there that it is. This is not, [7] as
I understand it, from a Washington
Redskins [8] yearbook. It's a newspaper
article.

[9] I'm sorry, what is the question [10]
again?

[11] (The reporter read the record as [12]
requested.)

[13] MR. REINER: You may answer that.

[14] THE WITNESS: No.

[15] BY MR. LINDSAY:

[16] Q: Why not?

[17] A: Because I don't think it is [18]
appropriate to represent the Wash-
ington [19] Redskins in this matter and I
hasten to add in [20] my answer that this
and the previous drawing, [21] in my
opinion, is a drawing of an Indian, but [22]
that Indian is purportedly, in my opinion,
at

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[1] least, to represent the club, the
Washington [2] Redskins, the football
team itself.

[3] Hence, the Redskins are identified by
[4] the feather in these drawings as the
Redskins, [5] not the Redskins an in-
dividual, but the [6] Redskins, a team,
itself.

[7] Q: What is it about this particular [8]
drawing that you do not believe is
appropriate [9] in this day and age?

[10] A: I think this is a caricature and it [11]
doesn't represent the Washington Re-

dskins team [12] as I'd like to see it
represent.

[13] Q: What in particular about the draw-
ing [14] causes you to say that it is not
appropriate?

[15] A: There are other ways of re-
presenting [16] the Washington Redskins
which I imminently [17] prefer than a
cartoon.

[18] Q: Is there anything about this draw-
ing [19] that you personally find offens-
ive?

[20] A: I look at this drawing as it was [21]
drawn and printed in 1943 and it may or
may not [22] have been appropriate at
that time. I was two

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[1] years old at the time, but I think that it
is [2] inappropriate at this time.

[3] Q: And granting, sir, that it is [4] in-
appropriate at this time, what in par-
ticular [5] about the picture do you
believe is [6] inappropriate?

[7] A: I would prefer to represent the [8]
Washington Redskins in other ways. For
[9] instance, in 1991, the Redskins went to
[10] Minneapolis to the Superbowl and
that season [11] the Washington Post had
some cartoons. Now [12] this, I'm sure,
were beyond the purview and [13] approval
of George Preston Marshall in 1943,
[14] just as the approval from the Wash-
ington Post [15] in 1991 was out of our
hands.

[16] However, the Washington Post had a
[17] columnist at that time, he is still with
the [18] Post, Tony Kornheiser, who
wrote a number of [19] columns on the
Redskins bandwagon. Associated [20]
with those columns were cartoon draw-
ings of a [21] bandwagon going to Min-
neapolis. It was started [22] towards the
end of the season, continued

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[1] columns and cartoons throughout the
playoffs [2] and then of course to the
Superbowl and after [3] the Superbowl
coming back, as a matter of fact.

[4] The Washington Post asked if they [5]
could publicize those drawings, the
bandwagon, [6] through bumper stickers
and we approved that [7] because we
thought that the team was well [8]
represented at that time. That's just four
[9] years ago.

[10] My point is, is that we don't have [11]
any approval on this kind of thing except
when [12] they have to get our per-
mission to run this [13] kind of thing with
a promotion. When that's [14] done, then
we insist on having our team [15] re-
presented as we see fit and we reserve
final [16] approval.

[17] Q: You've referred to a bumper stic-
ker, [18] Does the Washington football
team have a copy [19] of that bumper

sticker?

[20] A: I don't know if we have one, but we [21] can get one for you.

[22] MR. LINDSAY: Counsel, would you be

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[1] willing to supply that?

[2] MR. REINER: Surely, if we can get [3] one.

[4] BY MR. LINDSAY:

[5] Q: Sir, so our record is clear, the [6] second page that we've been referring to bears [7] Bates number S0004034. Sir, turn to the next [8] page which bears S0004166.

[9] A: Yes.

[10] Q: Do you see that page?

[11] A: I do.

[12] Q: Do you see the figure in the lower [13] right-hand corner?

[14] A: I do.

[15] Q: Does that appear to you to be a [16] native American or rather a caricature of a [17] native American?

[18] A: It's a caricature of a native [19] American, yes.

[20] Q: And do you agree that the action [21] depicted on this page is a native American [22] sending smoke signals?

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[1] A: Yes.

[2] Q: If this drawing were submitted to you [3] today for inclusion in the Washington football [4] team's programs or yearbooks, would you approve [5] it?

[6] MR. REINER: My objection is I do not [7] believe this came from a yearbook or - I don't [8] know what the source of this is, but I do not [9] believe it came out of a yearbook.

[10] MR. LINDSAY: That's fine, and I [11] don't mean to imply one way or the other that [12] this did or did not come from a yearbook, sir.

[13] THE WITNESS: This cartoon [14] obviously - or appears to be showing the home [15] games or maybe perhaps even the entire season [16] of the Redskins in 1960. I don't recall how [17] many games, frankly, were in the season at that [18] time. And I think that this would be [19] inappropriate today to represent the Redskins [20] by a cartoon drawing such as this.

[21] BY MR. LINDSAY:

[22] Q: Why do you say it would be

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[1] inappropriate?

[2] A: There are better ways to represent [3] the Washington Redskins than by a cartoon [4] drawing.

[5] Q: Is there anything about this draw-

ing [6] that you personally find offensive?

[7] A: No, I can't say I find it offensive.

[8] Q: Please turn to the next page which [9] for the record bears Bates number S0004541 and [10] purports to have appeared in the Fort Worth [11] Star Telegram on or about November 21, 1979.

[12] Do you see the figure in the center [13] of that drawing, sir?

[14] A: I do.

[15] Q: And do you see that the figure has [16] before it a tomahawk?

[17] A: Yes.

[18] Q: And that the figure is wearing a [19] headdress, including a feather?

[20] A: Yes.

[21] Q: And do you agree that that figure is [22] a caricature of a native American?

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[1] A: It is a caricature of the Washington [2] Redskins, as the other drawings, cartoons have [3] been caricatures of the Washington Redskins.

[4] Proof, also on this cartoon is what [5] appears to be a medallion of some sort that [6] says Redskins. In the previous cartoons the [7] name Redskins was on the feathers.

[8] I hasten to add, also, that this is [9] from the Fort Worth Star Telegram in 1979 and [10] we have no control over the editorial matter of [11] the Fort Worth Star Telegram or, indeed, any [12] other paper.

[13] Q: Sir, you've said in your answer that [14] you believe this to be a representation of the [15] Washington football team.

[16] Do you agree that it is actually a [17] caricature of an individual?

[18] A: It is a caricature of what this [19] artist, and I can't read his name, either, [20] except the top one, first name appears to be [21] Harold, of what he perceived to be an Indian [22] representing the Washington Redskins.

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[1] Q: If this drawing were submitted to you [2] today for inclusion in a Washington football [3] team's programs or yearbooks, would you approve [4] its usage?

[5] A: I would not.

[6] Q: Why not?

[7] A: Because there are better ways, in my [8] opinion, to represent the Washington Redskins.

[9] Q: Is there anything about the drawing [10] that you find offensive?

[11] A: No, I can't say it's offensive.

[12] Q: In your judgment, is the depiction of [13] an Indian representing the Washington football [14] team complimentary

of native Americans?

[15] A: It is a cartoon, same kind of thing [16] you see in the Washington Post with Herb Block [17] when he draws a cartoon of President Clinton.

[18] Q: Sir, do you recognize the figure that [19] we have been discussing as the likeness of any [20] particular native American?

[21] A: In this cartoon here?

[22] Q: Yes, sir, we are still on page 4541.

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[1] A: I don't recognize either the Cowboy [2] or the Indian.

[3] Q: Sir, if you would turn to the next [4] page which for the record bears Bates S0003985.

[5] A: Right.

[6] Q: Do you see the drawing in the center [7] of the picture?

[8] A: I do.

[9] Q: Do you agree that it purports to be a [10] representation of a native American?

[11] A: It is a representation, it is a [12] drawing of a native American representing the [13] Washington Redskins football club.

[14] Q: If the figure that you have just [15] identified were presented to you for inclusion [16] in a Washington football team program or [17] yearbook today, would you approve its use?

[18] MR. REINER: Wait a minute, could we [19] have an understanding so I don't have to be [20] putting this on the record, you're not implying [21] by any of these questions that they were in the [22] yearbook or approved by the Washington Redskins

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[1] at the time, are you?

[2] MR. LINDSAY: I am not implying that [3] for any of the prior pages or for page 3985, [4] 3986 or 3988.

[5] MR. REINER: All right, fine. May I [6] have the question read back, please.

[7] (The reporter read the record as [8] requested.)

[9] THE WITNESS: No.

[10] BY MR. LINDSAY:

[11] Q: Why not?

[12] A: Because I think there are better ways [13] to represent the Washington Redskins today than [14] with cartoon characters.

[15] Q: The next page bearing Bates 3986 also [16] has a cartoon figure. Do you see that?

[17] A: Yes, I do. Well I see two of them, [18] actually.

[19] Q: Do you see toward the upper left a

[20] figure that appears to be a native American?

[21] A: In the top one, yes.

[22] Q: And do you also see a figure in the

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[1] lower cartoon that appears to be a picture of a [2] native American?

[3] A: I think so.

[4] Q: That is the -

[5] A: I can't really read that one at all. [6] I would assume so.

[7] MR. REINER: Maybe from the content, [8] wait a minute, maybe from the content of the [9] page. It's a newspaper page. Well, you can't [10] tell.

[11] THE WITNESS: Here it is here, 1941, [12] New York Post. It has to be.

[13] MR. REINER: All right, okay.

[14] BY MR. LINDSAY:

[15] Q: If either of the figures that you [16] have now identified as native Americans on that [17] page were submitted for inclusion in the [18] Washington football team's program or yearbooks [19] today, would you approve their use?

[20] A: No, I would not.

[21] Q: Why not?

[22] A: Because I think there are better ways

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[1] to promote the upcoming games than with cartoon [2] characters.

[3] Q: Please turn to the next page, which [4] for the record is 3988.

[5] A: I have it.

[6] Q: Do you see in the upper right-hand [7] corner a depiction that appears to be a native [8] American-Indian?

[9] A: Yes. It's a drawing, actually, [10] cartoon.

[11] Q: Excuse me, a drawing. If that [12] drawing were submitted to you for inclusion in [13] the Washington football team's program or [14] yearbook today, would you approve its use?

[15] A: If this line of questioning I presume [16] is for new drawings similar to these to be [17] promoting games in 1996; is that correct? Or [18] are you talking about duplicating this [19] particular drawing in one of our publications [20] today?

[21] Q: Let me ask you both questions, sir, [22] and you have now separated my question into two

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[1] parts. Would you please respond to each of [2] those two parts.

[3] A: I'd be glad to. If this was [4] submitted today to be promoting our games in [5] this current season, I would not approve it [6] because I think that there

are other ways, [7] better ways to promote our games other than [8] using caricatures.

[9] If, however, a cartoon has some [10] historical significance and pertains to a story [11] that might be reprinted in a magazine or [12] publication that's controlled by the Washington [13] Redskins, I might include such a thing.

[14] Q: Why?

[15] A: For historical purposes if it [16] pertains to the story being written.

[17] Q: Would you include any disclaimer?

[18] A: Why?

[19] Q: I'm sorry?

[20] A: I don't know. Excuse me, may I also [21] point out that what you just said also pertains [22] to these other examples that you've shown me.

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[1] Q: Sir, if you would review the [2] remaining pages of the exhibit.

[3] A: These? Okay.

[4] Q: Yes, sir. And I will ask the [5] reporter to note the pages. Excuse me, we are [6] now looking at the exhibit page 3575. I am [7] asking you to review the remaining pages of the [8] exhibit.

[9] (Witness examined document)

[10] BY MR. LINDSAY:

[11] Q: And as you review them, sir, I will [12] be asking you whether you believe that any of [13] the depictions of figures that appear to be [14] native Americans are figures that you would [15] approve for usage in the Washington football [16] team's programs or yearbooks today?

[17] MR. REINER: Is that also assuming [18] that this was not a historical commentary or [19] review?

[20] MR. LINDSAY: We'll make that same [21] assumption at this point.

[22] (Witness examined document)

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[1] THE WITNESS: Do you want me to look [2] at these, as well, even though they are [3] different?

[4] BY MR. LINDSAY:

[5] Q: You are now looking, sir, at page [6] 1298; is that correct?

[7] A: Yes.

[8] Q: For the moment, please do not include [9] that page in the question which is pending.

[10] A: And the subsequent ones, 1520?

[11] Q: Sir, does 1520 appear to you to be [12] the cover page of a Washington football [13] publication?

[14] A: Yes. It looks different than the [15] others, but it appears that way.

[16] Q: The question, then, sir, is with [17]

respect to the pages that you have now reviewed [18] commencing at 3575 through the remainder of the [19] exhibit, with the exception of page 1298, do [20] you agree that each of those pages contains a [21] caricature of a native American?

[22] A: I do.

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[1] Q: Are there any of those caricatures [2] that you would approve for usage in a [3] Washington football team yearbook or program if [4] they were submitted to you today?

[5] A: Not today.

[6] Q: And is that because you consider [7] their usage inappropriate?

[8] A: I think there are better ways to [9] promote the club than using a cartoon character [10] such as this.

[11] Q: Are your reasons for disapproving of [12] these various figures the same reasons as [13] you've given for the other figures that we [14] examined in detail?

[15] MR. REINER: I don't quite know what [16] you mean.

[17] MR. LINDSAY: I want to avoid asking [18] the same questions 20 times.

[19] MR. REINER: No. No. Are these the [20] same exhibit, within Exhibit 12?

[21] BY MR. LINDSAY: Yes, sir, the same [22] Exhibit 12.

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[1] THE WITNESS: There are better ways [2] to promote our club other than using a cartoon [3] character of any sort.

[4] BY MR. LINDSAY:

[5] Q: Sir, I am placing back before you [6] Exhibit 9. We have not actually identified [7] Exhibit 9 for the record yet.

[8] Do you recognize Exhibit 9 as [9] portions of the Washington football team 50th [10] anniversary yearbook?

[11] MR. REINER: To the extent that it is [12] not the full exhibit.

[13] THE WITNESS: Wait a second, let me [14] see that.

[15] MR. REINER: I have to draw that on [16] the record it's not the full exhibit. But [17] whatever it is you're showing him, Mr. Cooke is [18] looking at.

[19] THE WITNESS: I'll agree with that. [20] You had two covers here. I don't recall this [21] cover.

[22] BY MR. LINDSAY:

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[1] Q: You say, sir, that you do not recall [2] the cover and at the time you said that you [3] were pointing to the first page of the exhibit; [4] is that correct?

[5] A: There seems to be two covers here, [6] unless this is - this might be the - this

[7] might - I think what this is, is the hard [8] cover and this is the wrap, this should be [9] really first, the book wrap.

[10] Q: So our record is clear, sir, when you [11] say that this is the hard cover, are you [12] pointing to the first page of the exhibit?

[13] A: This is a -

[14] Q: If you could answer that question yes [15] or no just so we can have our record clear.

[16] MR. REINER: The first page is [17] 001057.

[18] BY MR. LINDSAY:

[19] Q: Is that the page, sir, what you [20] believe to be the hard cover of the 1987 [21] official team yearbook?

[22] A: It appears that way, yes.

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[1] Q: There is also a page which bears [2] Bates number 001062; do you see that page?

[3] A: I do.

[4] Q: And you referred a moment ago to a [5] wrapper. Is that the page that you were [6] referring to?

[7] A: Yes.

[8] Q: And when you say a wrapper, do you [9] mean a piece of paper that goes around the [10] book?

[11] A: Yes.

[12] Q: Also known as a dust cover?

[13] A: Yes.

[14] Q: Sir, the page that you have referred [15] to as the wrapper bears the dates 1937 to 1986 [16] at the top; do you see that?

[17] A: I do.

[18] Q: And the page that you've referred to [19] as the hard cover copy bears the date 1987; do [20] you see that?

[21] A: I do.

[22] Q: What was the actual publication date?

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[1] A: I don't recall. It might be that [2] these are two different books. This might be [3] for the '87 year and this might be for the - [4] frankly I can't tell by these copies what they [5] are.

[6] Q: Does the Washington football team [7] still have copies of the 50th anniversary [8] yearbook?

[9] A: Yes, we do.

[10] MR. LINDSAY: Mr. Reiner, I realize [11] that I am asking for something which is labeled [12] as a limited edition, but it might help us to [13] make our proceedings throughout the rest of [14] this case more efficient if you would be so [15] kind as to provide me an original, which I [16] would be happy to return at the end

of the [17] litigation.

[18] MR. REINER: I know. Let me consult [19] with my client.

[20] What we'll do is we will get you a [21] copy of the official 1987 team yearbook for [22] reference purposes only and the stipulation it

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[1] will be returned to the club.

[2] MR. LINDSAY: That's agreeable.

[3] MR. REINER: Fine, okay. But to the [4] extent that there is an exhibit before the [5] witness, he'll do the best he can to testify [6] from it.

[7] BY MR. LINDSAY:

[8] Q: Sir, whether this is the 1986 or 1987 [9] yearbook, I will represent to you that it is a [10] document produced to us by your client.

[11] Do you recognize it as a page from a [12] publication of the Washington football team?

[13] A: I do.

[14] Q: Do you recall approximately when the [15] page appeared?

[16] A: It would have been prior to the 1997 [17] (sic) season, I think.

[18] MR. REINER: 1987 I think you mean, [19] sir.

[20] THE WITNESS: What did I say, '97?

[21] BY MR. LINDSAY:

[22] Q: When you say prior to the 1987

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[1] season, do you mean immediately prior?

[2] A: Well the season begins in September [3] through January, the Superbowl, so I think it [4] would have appeared in July and August of 1987.

[5] Q: Of '87 or '86? Let me just make [6] sure.

[7] A: I'm not sure. It's one or the other.

[8] Q: When you refer to the 1987 season, [9] are you referring to the season that begins in [10] approximately September 1986 or the season that [11] begins in September 1987?

[12] A: I think that they are referring to [13] the '86 being inclusive in numbers for the 50th [14] anniversary.

[15] MR. REINER: If there are two books, [16] Counselor, we will let you know and we will [17] provide you copies of both, but provided you [18] stipulate that they will be returned to the [19] club after the litigation is completed.

[20] MR. LINDSAY: That's fine.

[21] MR. REINER: Okay.

[22] BY MR. LINDSAY:

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[1] Q: You agree, sir, that there is a [2]

drawing that appears on the upper left-hand [3] corner of page 1080?

[4] A: I do.

[5] Q: And do you agree, sir, that it is a [6] reproduction of the same drawing that you have [7] previously looked at in Exhibit 12 that [8] appeared at page 3988?

[9] A: I do.

[10] Q: Why did the Washington football team [11] re-publish that picture?

[12] A: Because this is of historical [13] significance to the fans of the Washington [14] Redskins showing the history of the Washington [15] Redskins.

[16] Q: Was there anyplace in which the [17] Washington football team stated its view that [18] the depiction that we have just discussed was [19] inappropriate?

[20] A: I don't know.

[21] Q: Is there anyone else within the [22] Washington football organization who would be

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[1] able to answer that question?

[2] A: I'll be able to answer that question [3] when I see the entire yearbook, but I doubt [4] very much if there was any kind of a disclaimer [5] of that sort. There may have been reference to [6] it that these items were collected from our [7] archives showing the history of the Redskins, [8] but I'd have to review the publication itself [9] to be certain.

[10] Q: Sir, yesterday you testified that you [11] had not spoken with anyone at the Bureau of [12] Indian Affairs about this lawsuit. Do you [13] generally recall that?

[14] A: I don't - you asked me that question [15] yesterday?

[16] Q: Well, let me, as a predicate to the [17] remainder of this line of inquiry, let me just [18] ask you, have you ever spoken with anyone at [19] the Bureau of Indian Affairs about this [20] lawsuit?

[21] A: Not that I recall.

[22] Q: Have you ever otherwise communicated

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[1] with anyone at the Bureau of Indian Affairs [2] about this lawsuit?

[3] A: Not that I recall.

[4] Q: Have you ever communicated with [5] anyone at the Bureau of Indian Affairs on any [6] topic?

[7] A: I have - the Washington Redskins [8] have talked to the Bureau of Indian Affairs and [9] a representative of the Bureau of Indian [10] Affairs. I don't recall that I have ever [11] talked to anybody at the Indian - Bureau of [12] Indian Affairs directly.

[13] Q: Do you know someone named Wayne [14] Sevier, S-E-V-I-E-R?

[15] A: Wayne Sevier.

[16] Q: Who is that?

[17] A: He was a coach of the Washington [18] Redskins until 1991, approximately, for a [19] ten-year period, coached special teams.

[20] (John K. Cooke Deposition [21] Exhibit No. 13 was marked for [22] identification.)

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[1] BY MR. LINDSAY:

[2] Q: Who is ReGina Zuni-Walker?

[3] A: I don't know.

[4] Q: You've never spoken with anyone named [5] Regina Zuni-Walker?

[6] A: Not that I recall.

[7] (Whereupon, pages 172 to 175 [8] were deemed confidential and [9] bound under separate cover.)

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[1] (John K. Cooke Deposition [2] Exhibit No. 14 was marked for [3] identification.)

[4] BY MR. LINDSAY:

[5] Q: Sir, I'm showing you what has been [6] marked as Exhibit 14.

[7] MR. LINDSAY: And, Counsel, I [8] understand that this document does not bear the [9] same designation, so I assume that your [10] confidentiality designation has now ended; is [11] that correct?

[12] MR. REINER: Yes, my designation was [13] with reference to John Kent Cooke 13 because [14] the document was stamped for attorneys' eyes [15] only, but this document, number 14, does not [16] have such an indication, therefore I do not [17] make such a request.

[18] (Witness examined document)

[19] BY MR. LINDSAY:

[20] Q: Have you now reviewed Exhibit 14?

[21] A: I have read it.

[22] Q: And are you the author of Exhibit 14?

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[1] A: Yes.

[2] Q: And you wrote Exhibit 14 as executive [3] vice president of the Washington football team?

[4] A: I did.

[5] Q: On or about July 30, 1993?

[6] A: That's correct.

[7] Q: The second page of the exhibit, sir, [8] are you also the author of that page?

[9] A: I don't know. I don't know where [10] this came from.

[11] Q: Continuing on the second page, sir - [12] excuse me, your counsel is pointing -

[13] MR. REINER: I'm drawing your [14] attention to the last paragraph in case the [15] witness hasn't read it, if that helps your [16] recollection any. If it does -

[17] THE WITNESS: I obviously provided [18] this, but where I got this from, I don't know.

[19] BY MR. LINDSAY:

[20] Q: And the this that you've just [21] referred to is the second page of the exhibit; [22] is that correct?

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[1] A: That's correct.

[2] Q: The exhibit's second page bears the [3] title Indian tribal support list; do you see [4] that?

[5] A: I see that.

[6] Q: First of all, what does that mean?

[7] A: I don't know.

[8] Q: There is below that a listing of a [9] number of individuals in the left-hand column; [10] do you see that?

[11] A: I see it.

[12] Q: And the next column over is headed [13] organization; do you see that?

[14] A: I do.

[15] Q: Followed by addresses and telephone [16] numbers, respectively?

[17] A: Yes.

[18] Q: Have you spoken with any of the [19] individuals listed in the left-hand column with [20] respect to the word Redskin or Redskins in the [21] Washington football team's name?

[22] A: Not that I can recall.

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[1] Q: Are there any documents from which [2] you could refresh your recollection as to [3] whether you spoke with those individuals?

[4] A: No.

[5] (John K. Cooke Deposition [6] Exhibit No. 15 was marked for [7] identification.)

[8] BY MR. LINDSAY:

[9] Q: Sir, I'm showing you what has been [10] marked as John K. Cooke Exhibit 15. Are you [11] the author of that document?

[12] A: I am.

[13] Q: And you wrote it as executive vice [14] president of the Washington football team?

[15] A: I did.

[16] Q: On or about September 16, 1992?

[17] A: Yes.

[18] Q: And it is addressed to Charlie [19] Dayton?

[20] A: Yes.

[21] Q: Could you read aloud the last [22] sentence.

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[1] A: "I know this sounds somewhat far [2] fetched, one never knows. Why don't you ask [3] your friend at the Bureau of Indian Affairs if [4] there is any truth to this."

[5] And that is referring to the first [6] two paragraphs in which a son of Jim Thorpe has [7] said that all Indians would honor the Redskins [8] if a medicine man came to Redskin park to bless [9] the Washington Redskins.

[10] Q: First of all, is the person that you [11] refer to in the final sentence of that [12] paragraph the same individual with whom you met [13] from the Bureau of Indian Affairs?

[14] A: No.

[15] Q: So we are talking about two different [16] individuals at the Bureau of Indian Affairs?

[17] A: No. We are talking about two [18] different individuals. Whether Mr. Thorpe is [19] with the Bureau of Indian Affairs or not, I [20] haven't the faintest idea.

[21] Q: Excuse me, sir, the final sentence [22] which you read aloud and then commented upon

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[1] states, "Why don't you ask your friend at the [2] Bureau of Indian Affairs if there is any truth [3] to that"; do you see that sentence?

[4] A: I do.

[5] Q: And my question, sir, is whether [6] this, quote, "friend at the Bureau of Indian [7] Affairs," closed quote, is the same person with [8] whom you had the meeting referenced in Exhibit [9] 13?

[10] A: I suppose so, but it does - it is [11] not Jack Thorpe who is referred to in the first [12] paragraph.

[13] Q: And does your reading of Exhibit 15 [14] refresh your recollection as to the identity of [15] the person with whom you met as described in [16] Exhibit 13?

[17] A: No.

[18] (Whereupon, pages 182 to 193 [19] were deemed confidential and [20] bound under separate cover.)

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[1] BY MR. LINDSAY:

[2] Q: Who is Wilcomb Washburn?

[3] A: Wilcomb Washburn I believe is on the [4] staff of the Smithsonian Institution and he has [5] written a number of letters to the editor and [6] columns for publications concerning the [7] Washington Redskins.

[8] Q: Has he ever received any compensation [9] from the Washington football team?

[10] A: None.

[11] Q: Has he received any complimentary [12] tickets or passes to Washington football games?

[13] A: Not that I'm aware of.

[14] Q: Has he received any compensation from [15] NFL Properties, Inc.?

[16] A: Not that I'm aware of.

[17] Q: Has he received any compensation from [18] the National Football League?

[19] A: Not that I'm aware of.

[20] Q: Have you spoken personally with [21] Wilcomb Washburn?

[22] A: I have.

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[1] Q: When did you most recently speak with [2] him?

[3] A: I don't recall, but many years ago.

[4] Q: Have you spoken with him since the [5] commencement of this present lawsuit?

[6] A: I don't believe so.

[7] Q: Have you corresponded with Mr. [8] Washburn?

[9] A: Yes.

[10] (John K. Cooke Deposition [11] Exhibit No. 18 was marked for [12] identification.)

[13] BY MR. LINDSAY:

[14] Q: I'm showing you what has been marked [15] as John K. Cooke Exhibit 18. Would you take a [16] moment, sir, to review that document?

[17] (Witness examined document)

[18] BY MR. LINDSAY:

[19] Q: Have you completed your review?

[20] A: I have read it.

[21] Q: And did you write Exhibit 18 as [22] executive vice president of the Washington

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[1] football team on or about January 9, 1992?

[2] A: I did.

[3] Q: In the third paragraph, the second [4] sentence, do you see that it states, "Our plans [5] concerning this ridiculous matter will be [6] revealed when we win the championship game"; do [7] you see that?

[8] A: Yes.

[9] Q: To what matter were you referring?

[10] A: I had hoped - I don't remember [11] exactly.

[12] Q: Understanding that you don't remember [13] exactly, what do you recall?

[14] A: I think that what I was referring to [15] is the hope for a meeting with the Circle of [16] Elders.

[17] (John K. Cooke Deposition [18] Ex-

hibit No. 19 was marked for [19] identification.)

[20] BY MR. LINDSAY:

[21] Q: Please review Exhibit 19.

[22] (Witness examined document)

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[1] BY MR. LINDSAY:

[2] Q: Excuse me, to be more precise, let me [3] ask you for the moment simply to review the [4] first page of Exhibit 19.

[5] (Witness examined document)

[6] BY MR. LINDSAY:

[7] Q: Have you completed your review of [8] page 1 of Exhibit 19?

[9] A: I have.

[10] MR. REINER: Well, there's another [11] page, the next page has a one on it, also, but [12] you don't mean that, you're just referring to [13] just talking to the letter, is that all you're [14] referring to?

[15] MR. LINDSAY: Yes, sir.

[16] MR. REINER: All right.

[17] BY MR. LINDSAY:

[18] Q: Do you recall receiving Exhibit 19?

[19] A: Yes.

[20] MR. REINER: You better look, glance [21] through the rest of it. You better make sure [22] this is what you recall seeing.

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[1] BY MR. LINDSAY:

[2] Q: After inspecting the remaining pages [3] as your counsel instructed, I take it your [4] answer that you recall receiving Exhibit 19 [5] still stands?

[6] A: Exactly, but I don't recall the [7] specifics of the exhibit unless you want me to [8] re-read it.

[9] Q: No, sir, but from the first page of [10] Exhibit 19, the letter, itself, which I [11] understand that you have now read, does that [12] refresh your recollection that in corresponding [13] with Mr. Wilcomb Washburn, the matter to which [14] you referred in Exhibit 18 was the issue of the [15] name of the Washington football team?

[16] A: Would you repeat that, please, I'm [17] sorry. I was reading the letter.

[18] MR. REINER: Why don't you read the [19] letter again.

[20] THE WITNESS: I just read the letter.

[21] (The reporter read the record as [22] requested.)

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[1] THE WITNESS: Mr. Washburn is writing [2] about the name and I replied to him with [3] Exhibit 18 thanking him for his letter and the [4] draft of the article that he had written for [5] that magazine.

[6] BY MR. LINDSAY:

[7] Q: And after thanking him for that [8] article in Exhibit 18, you then went on to [9] refer to, quote, "this ridiculous matter," [10] closed quote; do you see that?

[11] A: I see that.

[12] Q: Now that you have seen the letter to [13] which you have stated you were replying, does [14] that refresh your recollection that the matter [15] that you were referring to was the issue of the [16] name of the Washington football team?

[17] A: That is correct.

[18] Q: You used the word, sir, ridiculous; [19] do you see that?

[20] A: I do.

[21] Q: Sir, why did you believe that the [22] matter to which you were referring was

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[1] ridiculous?

[2] A: Because the Washington Redskins name [3] represents the Washington Redskins of the [4] National Football League, a football club, [5] professional football club playing in the Fall [6] of each year. It represents nothing else. It [7] is the Washington Redskins.

[8] I believe that it is being - that [9] there are some people who are using the [10] prominence of the Washington Redskins for their [11] own purposes, whatever they - those purposes [12] are. And the name, itself, which is simply to [13] represent the franchise of the National [14] Football League, it is - never was intended to [15] insult or harm anyone and we've had plenty of [16] support from the public, including native [17] Americans. And I believe that it's just a few [18] people who are trying to take advantage of the [19] situation and take advantage of our name.

[20] Therefore, I call it ridiculous.

[21] Q: Sir, who is Ted Turner?

[22] A: Ted Turner is a businessman from

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[1] Atlanta, Georgia, who owns the Atlanta Braves, [2] the Atlanta Hawks - the Atlanta Braves of [3] major league baseball, the Atlanta Hawks of the [4] NBA and has been a phenomenally successful [5] businessman, starting CNN, super stations, [6] being quite involved in cable television and, [7] frankly, overhauling the communication industry [8] in this country.

[9] Q: Have you ever spoken with Mr. Turner [10] yourself?

[11] A: I have not.

[12] Q: On any topic?

[13] A: I have not spoken to him.

[14] (John K. Cooke Deposition [15] Exhibit No. 20 was marked for [16] identification.)

[17] BY MR. LINDSAY:

[18] Q: Sir, I'm showing you what has been [19] marked as Exhibit 20. Do you recognize that as [20] the cover page of an NFL Properties catalog and [21] of a subsequent page within that catalog?

[22] A: It appears to be a cover of a catalog

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[1] put out - a merchandise catalog put out by NFL [2] Properties in 1985.

[3] Q: And from time to time, have you had [4] occasion to see copies of the NFL Properties [5] merchandise catalogs?

[6] A: Yes, I have.

[7] Q: Have you ever seen Exhibit 20?

[8] A: I don't recall seeing this one.

[9] Q: Please turn to the second page of [10] Exhibit 20. Do you see in the lower right-hand [11] corner a figure appearing above the words [12] Washington Redskins?

[13] A: I do.

[14] Q: Is that a figure that the Washington [15] football team has in any way approved?

[16] A: No.

[17] Q: Has the Washington football team in [18] any way disapproved of that figure?

[19] A: Yes.

[20] Q: When did the Washington football team [21] do so?

[22] A: When we saw this.

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[1] Q: When was that, sir?

[2] A: When they came out. I gather it was [3] either in 1983 when it was copyrighted or in [4] 1985 when this catalog was printed.

[5] Q: How was this disapproval [6] communicated?

[7] A: It was communicated orally to the [8] head of NFL Properties at the time.

[9] Q: By whom?

[10] A: By me.

[11] Q: Did you make any notes of your [12] conversation?

[13] A: I don't remember if I did or not.

[14] Q: Did you follow up with any [15] correspondence to NFL Properties, Inc.?

[16] A: I don't recall if I did or not.

[17] Q: Did any attorney for the Washington [18] football team follow up with such [19] correspondence?

[20] A: Not that I'm aware of.

[21] Q: What did you say to this [22] representative of the NFL Properties, Inc.?

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[1] A: I told them that it was - that we [2]

did not approve of the way that this character [3] was designed for the Washington Redskins.

[4] What these were is a doll or a mascot [5] designed by NFL Properties to be sold to the [6] public. In addition, they had a - they had a [7] costume of this design worn by a, for lack of a [8] better term, an entertainer hired by NFL [9] Properties to be on the sidelines at the games [10] for every team in the National Football League.

[11] When this caricature appeared at the [12] game unbeknownst to us, we immediately told [13] them to leave the field and they were never [14] allowed back on the field.

[15] In the meantime, the dolls were still [16] manufactured and sold by NFL Properties, but [17] without our approval and, to the best of my [18] knowledge, only a few of these have been [19] retained by the different clubs. It was not a [20] successful promotion, league wide.

[21] Q: Why did the Washington football team [22] disapprove of the doll figure that is depicted

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[1] on page 8953?

[2] A: We did not think that it was the best [3] way to represent the Washington Redskins.

[4] Q: Why not?

[5] A: Because we represent the Washington [6] Redskins in other ways that we think are more [7] successful and more appropriate.

[8] Q: So your only concern with respect to [9] the doll depicted in the lower right-hand [10] corner of page 8953 is that there are more [11] successful ways of depicting the Washington [12] Redskins football team?

[13] A: Of promoting the Washington Redskins. [14] This primarily was a promotion to sell dolls. [15] We are not in the business of - the Washington [16] Redskins are not in the business of selling [17] dolls. We are in the business of promoting the [18] Washington Redskins entertainment and we do it [19] in the traditional way we have always done it.

[20] Q: Sir, when you say you're in the [21] business of providing Washington football [22] entertainment, you are not telling me, are you,

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[1] sir, that the Washington football team [2] disapproves of the sale of all merchandise [3] depicting the Washington football team, are [4] you?

[5] A: I am not saying that.

[6] Q: And, in fact, the Washington football [7] team profits from the sale of merchandise [8] depicting or relating to

the Washington [9] football team; is that correct?

[10] A: We receive an income from the sale of [11] NFL Properties merchandise.

[12] Q: Does the Washington football team [13] have the right to stop the sale of products [14] relating to the Washington football team of [15] which it disapproves?

[16] MR. REINER: That's calling for a [17] legal conclusion, Counselor, so I'm going to [18] instruct the witness not to answer that.

[19] BY MR. LINDSAY:

[20] Q: Sir, have you ever heard of a [21] publication called the Redskin review?

[22] A: Yes, I have.

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[1] Q: What have you heard about that [2] publication?

[3] A: The Redskin review - I'm not sure [4] which publication you're referring to. There [5] have been a number of Redskin reviews, reports [6] that are not associated with the Washington [7] Redskins.

[8] Q: Have you heard of a Redskin review [9] associated with the Atlantic Publishing Group [10] in Virginia Beach, Virginia?

[11] A: Vaguely familiar.

[12] (John K. Cooke Deposition [13] Exhibit No. 21 was marked for [14] identification.)

[15] BY MR. LINDSAY:

[16] Q: Sir, I'm showing you what has been [17] marked as Exhibit 21. Does that assist you in [18] recalling the Redskin review of Atlantic [19] Publishing in Virginia Beach, Virginia?

[20] A: No.

[21] Q: First of all, have you ever seen [22] Exhibit 21, itself, before?

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[1] A: I don't recall.

[2] Q: Do you see toward the center of the [3] page there is what appears to be a football [4] helmet?

[5] A: Yes.

[6] Q: And to the right of that are the [7] words Redskin review?

[8] A: Yes.

[9] Q: Have you ever seen that emblem and [10] those words before?

[11] A: Not that I can recall.

[12] Q: Focusing now just on the football [13] helmet toward the center left of the page, have [14] you ever seen that depiction before?

[15] A: This drawing on the helmet?

[16] Q: The helmet including the drawing.

[17] A: I don't recall it.

[18] Q: Do you have any information with [19] respect to whether the Washington football team [20] objected to registration of any trademarks of [21] the Redskin review which is referred to in [22] Exhibit 21?

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[1] A: I don't specifically recall if we did [2] or did not.

[3] (Whereupon, pages 210 to 212 [4] were deemed confidential and [5] bound under separate cover.)

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[1] BY MR. LINDSAY:

[2] Q: Sir, has the Washington football team [3] ever made donations to any organization that [4] you understand to be an American-Indian [5] organization?

[6] A: Not that I can recall.

[7] Q: Has the Washington football team ever [8] established any scholarship funds for native [9] Americans?

[10] A: Not that I can recall.

[11] Q: Has the Washington football team ever [12] had plans to establish scholarships for native [13] Americans?

[14] A: We considered that at one time.

[15] Q: When - I'm sorry?

[16] A: I said we considered that at one [17] time.

[18] Q: When did the Washington football team [19] consider that?

[20] A: In the early 1990s.

[21] Q: And I take it that the Washington [22] football team reached the decision not to fund

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[1] such scholarships; is that correct?

[2] A: That is correct.

[3] Q: Why did the Washington football team [4] choose not to fund such scholarships?

[5] A: Because we thought that it might not [6] be received properly with the intent that the [7] scholarships were to be set up and so we [8] decided that there would be more adverse [9] comment where people would be thinking we were [10] trying to buy off support from native American [11] groups.

[12] Q: Any other reasons?

[13] A: That's principally it.

[14] MR. LINDSAY: Sir, yesterday you [15] referred to a Washington Post survey.

[16] (John K. Cooke Deposition [17] Exhibit No. 23 was marked for [18] identification.)

[19] BY MR. LINDSAY:

[20] Q: I'm showing you Exhibit 23, John K. [21] Cooke Exhibit 23. Do you see that

document?

[22] A: Yes.

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[1] Q: And if you would turn to the second [2] page of the exhibit, do you see that that [3] second page purports to report survey results?

[4] A: Yes.

[5] Q: Is that the survey to which you were [6] referring?

[7] A: I don't recall referring to this [8] yesterday. Sorry. After two days of [9] testimony, I don't remember even mentioning [10] this one.

[11] Q: After reviewing Exhibit 23, do you [12] now recall a Washington Post survey?

[13] A: I do.

[14] Q: Has the Washington football team ever [15] received any copies of the survey that was [16] conducted?

[17] A: The actual survey itself?

[18] Q: Yes, sir.

[19] A: Not that I'm aware of.

[20] Q: Has the Washington football team ever [21] received any reports of the results of the [22] Washington Post survey, other than the two

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[1] pages that have been marked as Exhibit 23?

[2] A: Not that I'm aware of.

[3] Q: Sir, I believe you've testified that [4] you were not associated with the Washington [5] football team in 1972; is that correct?

[6] A: That is correct.

[7] Q: And is it fair to say, sir, that if a [8] meeting took place between Mr. Edward Bennett [9] Williams and various representatives of native [10] Americans, that you were not personally in [11] attendance at such a meeting?

[12] A: I was not in attendance.

[13] Q: Have you ever heard reference to such [14] a meeting?

[15] A: Yes.

[16] Q: What have you heard about such a [17] meeting?

[18] A: I think that your interrogatories [19] referred to it.

[20] Q: Is that the only reference you've [21] ever heard or seen about such a meeting?

[22] A: Best I can recall, yes.

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[1] Q: Sir, did you ever meet George Preston [2] Marshall?

[3] A: No, I didn't.

[4] Q: Did you ever speak with him?

[5] A: No, I didn't.

[6] Q: Have you ever discussed George [7] Preston Marshall with your father?

[8] A: Yes.

[9] Q: Has your father ever expressed any [10] views or opinions about George Preston [11] Marshall?

[12] A: Yes.

[13] Q: Has your father ever told you that he [14] considered George Preston Marshall a racist?

[15] MR. REINER: Object to the question, [16] but go ahead.

[17] THE WITNESS: Not that I can recall.

[18] BY MR. LINDSAY:

[19] Q: Has anyone ever informed you of his [20] or her belief that George Preston Marshall was [21] a racist?

[22] MR. REINER: Object to the question.

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[1] You may answer.

[2] THE WITNESS: Not that I can recall.

[3] (John K. Cooke Deposition [4] Exhibit No. 24 was marked for [5] identification.)

[6] BY MR. LINDSAY:

[7] Q: Sir, I'm showing you what has been [8] marked as Deposition Exhibit John K. Cooke 24. [9] Would you please review that document.

[10] (Witness examined document)

[11] BY MR. LINDSAY:

[12] Q: Have you completed your review?

[13] A: I've read it.

[14] Q: And did you write Exhibit 24 as [15] executive vice president of the Washington [16] football team on or about April 21, 1992?

[17] A: I did.

[18] Q: And this is a letter addressed to [19] Wilcomb Washburn; is that correct?

[20] A: That's correct.

[21] Q: And, in fact, you sent it to Wilcomb [22] Washburn?

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[1] A: It was mailed.

[2] Q: In the third paragraph of the letter [3] there is a statement, "For your information, [4] the Atlanta Braves (Turner-Fonda) have told the [5] Indian American Movement to get lost"; do you [6] see that?

[7] A: Yes.

[8] Q: Sir, if you have never spoken with [9] Mr. Ted Turner, what was your basis for your [10] belief that the Atlanta Braves had so informed [11] the American-Indian Movement?

[12] MR. REINER: Object to the form of [13] the question. You may answer.

[14] THE WITNESS: Around that time, no [15] doubt on April 1, 1992, it was reported in the [16] papers that the Atlanta Braves would not be [17] chang-

ing the name of their baseball club. [18]
That's what I'm referring to.

[19] **BY MR. LINDSAY:**

[20] **Q:** And so the phrase "get lost" was
your [21] interpretation of that event?

[22] **A:** Exactly.

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[1] **Q:** Sir, in the preceding paragraph, [2]
which is the second paragraph of the
letter, [3] the text reads, "If I were you I
would shoot [4] your editor however you
like, with a bullet or [5] an arrow"; do you
see that?

[6] **A:** I do.

[7] **Q:** Do you consider that language [8]
reserved?

[9] **MR. REINER:** Object to the question,
[10] but go ahead and answer it.

[11] **THE WITNESS:** Reserved. I really [12]
don't know what I was referring to. I
don't [13] see the letter that he sent me to
recollect [14] what I was referring to.

[15] But I must say, it sounds at least [16]
colorful. But I don't know what it really
[17] means in it's - by itself.

[18] **BY MR. LINDSAY:**

[19] **Q:** Do you consider the language [20]
tasteful?

[21] **A:** I don't - I consider it simply [22]
different. I don't know what it refers to.

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[1] **Q:** Are you telling me, sir, that there [2]
are circumstances in which you believe
that the [3] language "If I were you I
would shoot your [4] editor however you
like, with a bullet or an [5] arrow" would
be reserved or tasteful?

[6] **A:** I don't know what it refers to. I [7]
don't know - he must have written a
covering [8] note to me which I don't see
here that refers [9] to his editor. I have no
idea what it's about.

[10] **Q:** Is it your testimony, sir, that there
[11] is something that Mr. Wilcomb may
have told you [12] that would cause you to
believe that the [13] expression just
quoted from that letter is [14] reserved
and tasteful?

[15] **A:** I don't know.

[16] **Q:** Sir, have you ever spoken with [17]
Senator Ben Nighthorse Campbell?

[18] **A:** No, not that I recall.

[19] **Q:** Have you ever spoken about him?

[20] **A:** Yes, but I can't recall specifically.

[21] **Q:** Have you ever written about him?

[22] **A:** Not that I can recall.

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[1] **Q:** Do you recall ever describing to [2]
others Senator Ben Nighthorse Camp-
bell as a [3] dunderhead?

[4] **A:** Not that I can recall.

[5] **Q:** Do you believe that the word [6]
dunderhead is reserved and tasteful?

[7] **A:** I don't recall using the word [8]
dunderhead.

[9] **Q:** Sir, have you ever heard the word
[10] dunderhead before?

[11] **A:** Not that I can recall.

[12] **Q:** Have you ever read the word [13]
dunderhead before?

[14] **A:** Not that I can recall.

[15] **Q:** Do you have an understanding of
what [16] the word dunderhead means?

[17] **A:** No.

[18] **Q:** Are there circumstances, sir, in [19]
which you can conceive of using the
word [20] dunderhead in a manner that
you would describe [21] as reserved and
tasteful?

[22] **A:** I don't recall ever using that word.

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[1] **Q:** So as far as you know, sir, there are
[2] no circumstances in which you would
use that [3] word that you would consider
reserved and [4] tasteful?

[5] **MR. REINER:** Object to the question.
[6] He just said he doesn't ever remember
using the [7] word.

[8] (John K. Cooke Deposition [9] Exhibit
No. 25 was marked for [10] identifi-
cation.)

[11] **BY MR. LINDSAY:**

[12] **Q:** Have you ever heard your father
use [13] the word dunderhead?

[14] **A:** No, I haven't.

[15] **Q:** I'm showing you what has been
marked [16] as Exhibit 25. Would you
please review the [17] document.

[18] (Witness examined document)

[19] **BY MR. LINDSAY:**

[20] **Q:** Have you completed your review
of [21] Exhibit 25?

[22] **A:** I've read the letter, the cover

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[1] letter.

[2] **Q:** Have you ever seen that cover
letter [3] before?

[4] **A:** I don't recall.

[5] **Q:** Do you recognize the signature at
the [6] bottom of the page as the sig-
nature of your [7] father, Mr. Jack Kent
Cooke?

[8] **A:** I do.

[9] **Q:** And do you see that the letter [10]
appears on Washington football team
letterhead?

[11] **A:** I do.

[12] **Q:** And do you see in the first - [13]
actually, sir, just so we are clear, do you
see [14] the first sentence which reads,
"My deep thanks [15] for your letter to
Senator Campbell which ought [16] to

bring the dunderhead up short"; do you
see [17] that?

[18] **A:** Yes.

[19] **Q:** Now that I have placed that con-
text [20] before you, sir, does that refresh
your [21] recollection as to whether you
have ever seen [22] or heard the word
dunderhead?

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[1] **A:** No.

[2] **Q:** Within the context of that para-
graph, [3] sir, do you consider the word
dunderhead [4] reserved and tasteful?

[5] **A:** I have no opinion on it.

[6] **Q:** Have you ever referred to Senator
Ben [7] Nighthorse Campbell as Nig-
htshirt?

[8] **A:** As what?

[9] **Q:** Nightshirt?

[10] **A:** Not that I can recall.

[11] **Q:** Have you ever heard your father
refer [12] to Senator Ben Nighthorse
Campbell as [13] Nightshirt?

[14] **A:** Not that I can recall.

[15] (John K. Cooke Deposition [16] Ex-
hibit No. 26 was marked for [17] iden-
tification.)

[18] **BY MR. LINDSAY:**

[19] **Q:** I'm showing you, sir, what has
been [20] marked as Exhibit 26. Do you
see that?

[21] **A:** I do.

[22] **Q:** Would you please take a moment
to

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[1] review the first page of Exhibit 26.

[2] (Witness examined document)

[3] **THE WITNESS:** I have read it.

[4] **BY MR. LINDSAY:**

[5] **Q:** Have you seen Exhibit 26 before?

[6] **MR. REINER:** Wait a minute, there's [7]
two pages to it.

[8] **THE WITNESS:** Actually there's [9]
supposed to be five pages to this, look.

[10] **MR. REINER:** I don't know, that's all
[11] we have.

[12] **THE WITNESS:** I'm sorry, the [13]
question?

[14] **BY MR. LINDSAY:**

[15] **Q:** Have you seen Exhibit 26 before?

[16] **A:** I don't recall seeing this.

[17] **Q:** And specifically do you recall
seeing [18] the first page of Exhibit 26
before?

[19] **MR. LINDSAY:** Mr. Reiner, if you [20]
would permit your witness to take one
more look [21] at the first page.

[22] **MR. REINER:** Right. I'm trying to

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[1] read the second page of an exhibit that has [2] been presented to the witness.

[3] Now we'll look at the front page [4] after we've completed reviewing the second [5] page.

[6] **THE WITNESS:** I've read both pages.

[7] **BY MR. LINDSAY:**

[8] **Q:** And have you seen the first page of [9] Exhibit 26 before?

[10] **A:** I don't recall seeing either.

[11] **Q:** Do you recognize the signature at the [12] bottom of the first page of Exhibit 26 as the [13] signature of your father?

[14] **A:** No.

[15] **Q:** Do you recognize the signature at [16] all?

[17] **A:** No.

[18] **Q:** Do you see that the document appears [19] on letterhead of the Washington football team?

[20] **A:** I do.

[21] **Q:** Does your father have a secretary?

[22] **A:** Yes.

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[1] **Q:** In 1993 did he have a secretary?

[2] **A:** Yes.

[3] **Q:** Sir, calling your attention again to [4] the signature on Exhibit 26, do you see that to [5] the right of the signed words Jack Kent Cooke [6] there is a further marking?

[7] **A:** Yes.

[8] **Q:** Does that appear to you to be a slash [9] followed by some other character?

[10] **A:** It does.

[11] **Q:** What does the character appear to you [12] to be?

[13] **A:** Appears to be a C.

[14] **Q:** Has your father ever had a secretary [15] whose initial was the letter C?

[16] **A:** It appears so.

[17] **Q:** And you say that because you point to [18] the typed script in the lower left of the [19] letter that reads JKC/cat?

[20] **A:** That's correct.

[21] **Q:** Is it the custom and practice within [22] the Washington football organization for a

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[1] secretary to indicate in the lower left-hand [2] corner of correspondence the initials of the [3] person for whom he or she is typing a letter?

[4] **A:** Yes.

[5] **Q:** And are there occasions on which [6] members of the Washington football organization [7] have their secretaries

sign their letters for [8] them?

[9] **A:** There are rare occasions, yes.

[10] **Q:** Do you have any reason to disbelieve [11] that on this particular occasion of Exhibit 26 [12] Mr. Jack Kent Cooke's secretary signed the [13] letter for him?

[14] **A:** I have no reason to dispute that.

[15] **Q:** Now, sir -

[16] **MR. REINER:** I'd just like to note, [17] obviously this was produced, that there were [18] apparently some exhibits, one through five. I [19] only see one page here. I don't know what [20] happened to the other pages. I just note it.

[21] **MR. BAIRD:** We'd like to see them, [22] too. As far as I know, they haven't been

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[1] produced.

[2] **MR. REINER:** I know, that's all we [3] have. I'm just saying I have no idea what Mr. [4] Campbell was sending, or whatever it was.

[5] I just noted it for the record so [6] that there wouldn't be any dispute about that [7] document.

[8] **BY MR. LINDSAY:**

[9] **Q:** Sir, do you see that the first [10] sentence reads, "I enjoyed your letter so much [11] that I toyed with the idea of asking permission [12] to send a copy to Nightshirt"?

[13] **A:** I see that sentence.

[14] **Q:** And do you see in the next paragraph [15] the sentence that reads, "Above all, it's a [16] pity that a United States Senator should waste [17] his time as publicly as the man from Colorado"?

[18] **A:** I see that sentence as the second [19] paragraph of this letter.

[20] **Q:** And do you understand that the [21] reference in the first paragraph to Nightshirt [22] is a reference to Senator Ben Nighthorse

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[1] Campbell?

[2] **A:** I do.

[3] **Q:** Do you believe that the use of the [4] word Nightshirt in that letter is reserved and [5] tasteful?

[6] **A:** I believe that the use of the word [7] Nightshirt is taken from a James Kevin [8] Campbell's letter and that my father was [9] referring to that for some reason.

[10] **Q:** Do you consider either the usage by [11] your father or the usage by Mr. James Kevin [12] Campbell to be reserved and tasteful?

[13] **MR. REINER:** I object to the [14] question. You may answer, if you wish.

[15] **THE WITNESS:** I don't know what [16] Mr. - what Mr. James Kevin Campbell was [17] referring to and, therefore, I

don't know what [18] my father is referring to. So I can't [19] characterize it and describe it in any way.

[20] **MR. LINDSAY:** Counsel, I see that it [21] is 5 o'clock, which is the time that whether I [22] was completed or not I would adjourn this

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[1] deposition.

[2] **MR. REINER:** I'd prefer to finish it, [3] if you can finish it.

[4] **MR. LINDSAY:** I cannot finish it in [5] any reasonable time following 5 o'clock.

[6] **MR. REINER:** How much longer do you [7] think you need?

[8] **MR. LINDSAY:** Several hours.

[9] **MR. REINER:** Several more hours?

[10] **MR. LINDSAY:** Yes, sir.

[11] **MR. REINER:** We'll have to adjourn [12] the deposition to a time and place that's [13] convenient to Mr. Cooke, then. We'll have to [14] consult further about that. Mr. Cooke is [15] prepared to stay a little longer.

[16] **THE WITNESS:** But not several hours.

[17] **MR. LINDSAY:** I have no desire, sir, [18] to inconvenience you today by having you stay a [19] short time longer if I don't believe I'm going [20] to be able to finish the deposition within that [21] short time, so...

[22] **MR. REINER:** Okay. We'll see.

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[1] **MR. LINDSAY:** And I understand from [2] your comments earlier today, sir, that - [3] excuse me, Mr. Reiner, that you are both, with [4] respect to yesterday and today, reserving the [5] right to read and sign?

[6] **MR. REINER:** Yes, of course. And [7] also reserving the right to have it submitted [8] to any other notary. Any notary would be [9] satisfactory?

[10] **MR. LINDSAY:** I'm sorry?

[11] **MR. REINER:** Any Notary Public would [12] be satisfactory?

[13] **MR. LINDSAY:** I have no objection.

[14] **MR. REINER:** Fine. Okay.

[15] **MR. LINDSAY:** Mr. Reiner, you have [16] previously advised me that although the [17] deposition of Mr. Jack Kent Cooke has been [18] noticed, it's my understanding that you have [19] thus far declined to produce him. I believe [20] that you phrase it differently and state that [21] you have made no decision yet as to whether you [22] will produce him.

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[1] **MR. REINER:** No, I have specifically [2] stated on the record in prior depositions that [3] I have not declined to produce Mr. Cooke, Mr. [4] Jack Kent Cooke. I

reserved on that position [5] until Mr. John Kent Cooke's deposition was [6] completed and we could ascertain if there were [7] any questions that Mr. John Kent Cooke could [8] not respond to that Mr. Jack Kent Cooke could [9] possibly respond to that would be appropriate [10] in this proceeding.

[11] As I see now, there are three letters [12] that Mr. Jack Kent Cooke wrote that this [13] witness was not familiar with. If we would [14] have a limited deposition for those purposes, [15] for those letters, I would undertake to produce [16] Mr. Jack Kent Cooke at a convenient time.

[17] So far that's all I see, are three [18] letters, unless you have something else [19] specific that you noted during Mr. John Kent [20] Cooke's testimony that he could not respond to [21] that you believe Mr. Jack Kent Cooke could [22] respond to.

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[1] MR. LINDSAY: Counsel, I disagree [2] with the proposition that you are permitted to [3] determine in advance precisely what questions I [4] intend to ask Mr. Jack Kent Cooke.

[5] I believe the record is clear that [6] there is far more than simply the three letters [7] to which you have just referred and as to which [8] this witness clearly has no knowledge on that [9] Mr. Jack Kent Cooke might have knowledge.

[10] I believe further that whether or not [11] this witness has knowledge is irrelevant to the [12] question of whether I'm entitled to take the [13] deposition of Mr. Jack Kent Cooke.

[14] I will not agree to a deposition in [15] which the only topics upon which I am permitted [16] to inquire are the three letters and I will not [17] provide you an advanced copy of my outline of [18] examination for Mr. Jack Kent Cooke.

[19] MR. REINER: I don't expect you to [20] give me an outline of any examination. I [21] expect you to indicate to me the areas which [22] you think Mr. Jack Kent Cooke would be

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[1] testifying to that Mr. John Kent Cooke was not [2] able to testify to. That is all I am asking.

[3] And I will certainly produce Mr. Jack [4] Kent Cooke for that purpose. I've told you [5] that. I'll say it again on the record. Mr. [6] Jack Kent Cooke will testify on those things [7] that Mr. John Kent Cooke has been unable to [8] testify about and he will be more than willing [9] to do so.

[10] So, please, let me know. We will [11] make arrangements to have Mr. Jack Kent Cooke [12] made available to you.

[13] MR. LINDSAY: Sir, I will not tell [14] you the areas in which I intend to inquire

with [15] Mr. Jack Kent Cooke. I am prepared to take the [16] deposition of Mr. Jack Kent Cooke if you will [17] make Mr. Jack Kent Cooke available. But I am [18] not prepared to agree to the substantive [19] restrictions that you have described and I am [20] not prepared to tell you what it is about which [21] I intend to question him.

[22] MR. REINER: Well I think that's very

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[1] unreasonable, Counsel, when we have produced [2] the executive vice president who runs the [3] day-to-day operations of the team, who is [4] knowledgeable about almost everything that you [5] have asked except for three letters, that I [6] have seen, and I believe the fight song. I'm [7] not quite sure, but I believe that is an area [8] that Mr. John Kent Cooke was unable to testify [9] about. And Mr. John Kent Cooke was unable to [10] testify about a 1972 meeting.

[11] Other than that, I believe Mr. John [12] Kent Cooke has responded to all of the [13] questions that would be addressed to the [14] Washington Redskins football team, club, as a [15] respondent in these proceedings.

[16] Mr. Jack Kent Cooke functions as the [17] president of the organization. Mr. John Kent [18] Cooke is the executive vice president of the [19] organization and we are producing the [20] respondent and we will produce the persons at [21] the respondent who are knowledgeable of the [22] facts.

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[1] Mr. Jack Kent Cooke will provide [2] information that Mr. John Kent Cooke could not [3] provide. And that's, I believe, a fair [4] position to take.

[5] Now we are prepared to go ahead [6] tomorrow with Mr. Vaughan and we will produce [7] him as the public relations director; and if [8] there's some areas that he cannot respond to [9] that you believe require further testimony from [10] Mr. Jack Kent Cooke, we'll take that under [11] advisement.

[12] I believe if that is an accurate [13] statement on your part tomorrow that there are [14] areas that Mr. Vaughan cannot testify to, Mr. [15] Jack Kent Cooke will testify to about them. [16] That's all I'm suggesting.

[17] Mr. Jack Kent Cooke is prepared to [18] testify and will testify on those areas whereas [19] a representative of the respondent, in those [20] areas where you feel that the testimony from [21] Mr. John Kent Cooke has not been complete. And [22] I believe the record has been made of the

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[1] areas.

[2] So, why don't we take a look at the [3] record. You can advise me accordingly and Mr. [4] Jack Kent Cooke will appear and testify.

[5] MR. LINDSAY: Sir, I now advise you [6] that I have - excuse me, I now remind you that [7] I have served a notice of taking deposition of [8] Mr. Jack Kent Cooke. In serving that notice, I [9] advised you that I was, of course, willing to [10] be flexible as to the date on which his [11] deposition would be taken.

[12] I have noticed him as an individual [13] within the control of your client. I have not [14] noticed him as a 30(b)6 witness. I believe [15] that the rules clearly entitle me to take that [16] deposition. I am not aware of any motion filed [17] by your client for a protective order with [18] respect to that witness.

[19] Since I have noticed him as an [20] individual and not as a 30(b)6 witness, I [21] believe I am entitled to take his deposition [22] without giving you advanced information as to

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[1] the topics in which I will inquire.

[2] I further advise you that if you are [3] not willing to make Mr. Jack Kent Cooke [4] available without the type of advanced [5] restrictions and information that you have [6] described, that I will bring a motion in limine [7] to exclude all testimony of Mr. Jack Kent Cooke [8] from these proceedings.

[9] I further advise you that that motion [10] in limine will seek to exclude all evidence [11] that the Washington team wishes to present on [12] any matters that may reasonably fall within the [13] knowledge of Mr. Jack Kent Cooke, as well.

[14] MR. REINER: And not in the knowledge [15] of Mr. John Kent Cooke?

[16] MR. LINDSAY: I'm entitled to examine [17] all of the witnesses who may have knowledge.

[18] MR. REINER: All right. I put you on [19] notice that I, again, reiterate, Mr. Jack Kent [20] Cooke will appear. Mr. Jack Kent Cooke will [21] appear in his capacity as the president of the [22] respondent, that he will answer fully those

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[1] areas where we were unable to elicit the [2] information from the respondent.

[3] I further put you on notice that Mr. [4] Jack Kent Cooke functions as president of the [5] organization and that his testimony would be in [6] the context of president of the organization [7] and further, that if we cannot agree upon this, [8] I will be making a motion for a protective [9] order. I put you on notice now that that [10] motion will be prepared and made, unless we [11] agree.

[12] I suggest we discuss this matter [13]

tomorrow after you have completed the
[14] deposition of Mr. Vaughan.

[15] MR. LINDSAY: I believe our positions
[16] have been stated.

[17] MR. REINER: Fine, we'll talk to you
[18] again tomorrow after you've com-
pleted with Mr. [19] Vaughan. That's fine
with me.

[20] All right.

[21] MR. LINDSAY: I think we are [22] com-
pleted with our record.

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[1] (Whereupon, at 5:10 p.m., the [2]
deposition of JOHN KENT COOKE, [3]
was adjourned.)

Lawyer's Notes

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Lawyer's Notes

E R R A T A S H E E T

I, John Kent Cooke, do hereby certify that I have read the foregoing transcript of my testimony taken on March 26, 1996, and have signed it subject to the following changes:

<u>PAGE</u>	<u>LINE</u>	<u>CORRECTION</u>
11	4	change "I think 1981." to "I think since 1981."
13	11	change "Junior, his" to "Junior, and his"
42	1	change "ward" to "word"
46	14	change "answered he" to "answered. He"
68	18	change "'83. And" to "'83 and"
69	12	delete "the"
79	21	change "gran-ddaughter" to "grand-daughter"
79	22	change "granddaughter" to "grand-daughter"
92	16	delete "the"
96	16	change "Redskins" to "redskins"
110	9	change "motives" to "motifs"
115	22	change "Oscala" to "L'Scala"
130	22	change "tolerate" to "tolerant"
157	22	change "that" to "than"
187	18	change "man, general" to "man, the general"
187	19	change "station commissioned" to "station, commissioned"

187 21 change "refer them" to "refer to
 them"
187 21 delete "--"
188 4 change "it. New" to "it. A new"
188 8 change "got that" to "got- that"

Signed this 9th day of May , 1996.


John Kent Cooke

State of Virginia

County of Loudoun

Subscribed and sworn to before me this 9th day
of May , 1996.


Notary Public

My Commission Expires:

9/30/99

(SEAL)

COPY

CONFIDENTIAL PORTIONS

CONFIDENTIAL

IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

- - - - -X
In re Registration No. 1,606,810 :
(Redskinettes), Registered :
July 17, 1990, :
Registration No. 1,343,442 (Skins) :
Registered June 18, 1985, :
Registration No. 1,085,092 :
(Redskins) :
Registered February 7, 1978, :
Registration No. 987,127 :
(The Redskins & Design) :
Registered June 25, 1974, :
Registration No. 986,668 :
(Washington Redskins & Design) :
Registered June 18, 1974, :
Registration No. 978,824 :
(Washington Redskins) :
Registered February 12, 1974, : Cancellation
and Registration No. 836,122 : No. 21,069
(The Redskins - Stylized Letters) :
Registered September 26, 1967 :
:
SUZAN SHOWN HARJO, RAYMOND D. :
APODACA, VINE DeLORIA, JR., :
NORBERT S. HILL, JR., MATEO :
ROMERO, WILLIAM A. MEANS, and :
MANLEY A. BEGAY, JR., : VOLUME 2
:
Petitioners, :
v. :
:
PRO-FOOTBALL, INC., : CONFIDENTIAL
:
:
Respondents. : PAGES: 172-175,
- - - - -X 182-193, 210-212

Washington, D.C.

Wednesday, March 27, 1996

BETA

1 Continued Deposition of

2 JOHN KENT COOKE

3 a witness, called for examination by counsel
4 for the Petitioners, pursuant to notice of
5 counsel, held at the law offices of Dorsey &
6 Whitney, Suite 200, 1330 Connecticut Avenue,
7 N.W., Washington, D.C., beginning at 9:45 a.m.,
8 before Monica A. Voorhees, RPR/CSR and notary
9 public in and for the District of Columbia,
10 when were present on behalf of the respective
11 parties:

12
13 APPEARANCES:

14 On behalf of Petitioners:

15 MICHAEL A. LINDSAY, ESQUIRE
16 STEPHEN R. BAIRD, ESQUIRE
17 Dorsey & Whitney
220 South Sixth Street
18 Minneapolis, Minnesota 55402
(612) 340-2600

19 On behalf of Respondents:

20 JOHN PAUL REINER, ESQUIRE
21 NADINE P. FLYNN, ESQUIRE
White & Case
1155 Avenue of the Americas
New York, New York 10036-2787
22 (212) 819-8200

1 BY MR. LINDSAY:

2 Q I'm showing you, sir, what has been
3 marked as John K. Cooke Exhibit 13. Would you
4 please review that document.

5 (Witness examined document)

6 BY MR. LINDSAY:

7 Q Have you completed your review?

8 A I have.

9 Q Is Exhibit 13 a memorandum that you
10 wrote as executive vice president of the
11 Washington football team?

12 A It is a memo to file that I dictated
13 on November 22, 1991.

14 Q Now that you have reviewed Exhibit
15 13, do you recall that you have communicated
16 with the Bureau of Indian Affairs?

17 A I have communicated with the Bureau
18 of Indian Affairs. I didn't know until
19 reviewing this memo that I had done it
20 directly. I thought, frankly, that I had done
21 it through our PR director at the time, Charles
22 Dayton.

1 MR. REINER: Counsel, may I just
2 observe that this is a document marked for
3 attorneys' eyes only, so may we have this
4 document and any of this testimony deemed as
5 under the Order of confidentiality and this
6 part of the record kept separately and sealed?

7 MR. LINDSAY: I understand that you
8 are so designating it.

9 MR. REINER: You have no problem with
10 it?

11 MR. LINDSAY: Well, I strongly
12 disagree that it's a proper designation, but I
13 understand you're making that designation.

14 MR. REINER: Okay, fine. Okay.

15 BY MR. LINDSAY:

16 Q With whom at the Bureau of Indian
17 Affairs did you have the meeting referred to in
18 Exhibit 13?

19 MR. REINER: Do you remember?

20 THE WITNESS: I don't remember his
21 name.

22 BY MR. LINDSAY:

1 Q Exhibit 13 bears at the bottom the
2 word redacted, does it not?

3 A It does.

4 Q And are you telling me that without
5 seeing the complete memorandum, you are unable
6 to remember with whom you had the meeting?

7 A That's correct.

8 Q Did you ever share a copy of Exhibit
9 13 with this person with whom you had the
10 meeting?

11 A I don't recall.

12 Q Do you believe that in your mind
13 Exhibit 13 is an accurate statement of what
14 happened at the meeting?

15 A Well I don't recall the entire
16 meeting. I don't recall, frankly, that the
17 meeting took place. I don't know how long it
18 took and I can't recall then if this is
19 inclusive of everything that was discussed at
20 the meeting.

21 Q Setting aside that you do not recall
22 the specific name of the individual with whom

1 you communicated as referenced in Exhibit 13,
2 have you had any communications with that
3 person since the meeting described in Exhibit
4 13?

5 A Not that I can recall, no. I don't
6 even remember this meeting clearly.

7 Q And do you, setting aside that you do
8 not currently recall the name of the individual
9 with whom you had the meeting, are you able to
10 tell me whether that person is still with the
11 Bureau of Indian Affairs?

12 A I don't know.

13 (End of Confidential Portion)

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1 (John K. Cooke Deposition
2 Exhibit Nos. 16 and 17 were
3 marked for identification.)

4 MR. REINER: I note that both
5 Exhibits 16 and Exhibit 17 are stamped for
6 attorneys' eyes only confidential and designate
7 them as being confidential and any testimony
8 related thereto and I ask that that part of the
9 record be sealed.

10 BY MR. LINDSAY:

11 Q Sir, I have placed before you
12 Exhibits 16 and 17. Let me take them one by
13 one.

14 Exhibit 16 is a memorandum to file
15 that you wrote as executive vice president of
16 the Washington football team on or about
17 January 9, 1992; is that correct?

18 A That's correct.

19 Q And it purports to describe a
20 conversation with a representative of AIM; is
21 that correct?

22 A That is not correct.

1 Q The first sentence reads, "Charlie
2 Dayton and I talked further with," then there
3 is some blank space which I take is the
4 redaction or at least part of the redaction on
5 this page, and then the sentence concludes with
6 the word "today"; do you see that?

7 A I do.

8 Q With whom was that conversation?

9 A I don't recall.

10 Q Sir, there then appears to be some
11 additional blank space and then we get to the
12 words "reported that the Indian group, AIM,"
13 and it continues from there; do you see that?

14 A I'm sorry, where does it end? Second
15 paragraph, right.

16 MR. REINER: In the first paragraph
17 of the letter after the redacted portion.

18 MR. LINDSAY: Actually, Counsel, I
19 don't know that it is after the redacted
20 portion. It may be a paragraph break there and
21 I can't tell from that page.

22 MR. REINER: That is correct, I don't

1 know either. That is correct.

2 For the purposes of this question,
3 why don't we deem it to be the second
4 paragraph, so that there's no dispute on the
5 record to what he's looking at.

6 BY MR. LINDSAY:

7 Q That's fine. There is a portion of
8 the text that begins with the words "reported";
9 do you see that?

10 A I do.

11 Q Would you please read the remainder
12 of that portion of the text to yourself.

13 (Witness examined document)

14 THE WITNESS: Just in that paragraph
15 or the entire memo?

16 BY MR. LINDSAY:

17 Q Just in that particular portion of
18 the text.

19 A I did.

20 Q Who made the report that is described
21 following the word reported?

22 A I don't remember his name.

1 Q Was it a member of the Washington
2 football organization?

3 A No.

4 Q Was it someone that you understood to
5 be a member of the American-Indian Movement?

6 A I suppose so.

7 Q But you don't actually recall?

8 A I do not recall exactly.

9 Q In the next sentence there is
10 apparently another space where there was a
11 redaction before the word stated.

12 A Yes.

13 Q Do you recall who it was that made
14 the statement then quoted?

15 A No, I don't.

16 Q Was it the same person who made the
17 report with which this paragraph begins?

18 A I would assume so.

19 Q There is another break some or all of
20 which may be a redaction. We then get to the
21 word recommends.

22 Do you recall who made the

1 recommendation that is stated in the remainder
2 of that paragraph?

3 A I don't recall.

4 Q The next paragraph, again, assuming
5 it to be a separate paragraph, contains several
6 redactions stating that someone, whose name is
7 redacted, has talked to someone, whose name is
8 redacted, of the Circle of Elders. Do you see
9 that?

10 A I do.

11 Q Do you recall who talked with the
12 person at the Circle of Elders?

13 A No, I don't.

14 Q Do you recall who the person at the
15 Circle of Elders with whom this conversation
16 was held was?

17 A No, I do not recall.

18 Q There is a redaction further down on
19 the page -- excuse me, in that same paragraph
20 and the name of the person is deleted but that
21 person is reported to be willing to issue a
22 statement; do you see that?

1 A I see that.

2 Q Who is that person?

3 A I don't know.

4 Q And there is additional space below
5 that paragraph which may or may not be a
6 further redaction and do you see then in what
7 appears to be the final paragraph three
8 additional areas where there has been
9 redaction?

10 A Yes.

11 Q Who was the individual described in
12 that paragraph?

13 A I don't recall.

14 Q Has anyone from the Washington
15 football team ever met with a representative of
16 the Circle of Elders?

17 A I don't know.

18 Q Sir, do you believe that the business
19 interests of the Washington football team would
20 be in any way damaged by revealing the names of
21 the individuals which names have been redacted
22 from Exhibit 16?

1 MR. REINER: Do you want to speak
2 with me?

3 MR. LINDSAY: The record should
4 reflect --

5 MR. REINER: Sure, I'm going to talk
6 to the client.

7 (Counsel conferred with witness)

8 THE WITNESS: Would you repeat the
9 question, please.

10 (The reporter read the record as
11 requested.)

12 THE WITNESS: Yes.

13 BY MR. LINDSAY:

14 Q In what way would the business
15 interests of the Washington football team be
16 damaged?

17 A We pursued this line of questioning
18 with this person in complete confidence. We
19 gave our word and assurance we would not reveal
20 who he was.

21 Q And was that giving of word an
22 assurance in anyplace reduced to writing?

1 A I don't recall.

2 Q Is there any other way in which the
3 business interests of the Washington football
4 team would be damaged by revealing the names?

5 THE WITNESS: Can I consult with you
6 again?

7 MR. REINER: You absolutely may.

8 MR. LINDSAY: The record should
9 reflect a further consultation.

10 (Witness conferred with counsel)

11 THE WITNESS: Would you repeat the
12 question, please.

13 (The reporter read the record as
14 requested.)

15 THE WITNESS: Not that I can foresee
16 at this time.

17 BY MR. LINDSAY:

18 Q Sir, would you please look at Exhibit
19 17.

20 (Witness examined document)

21 BY MR. LINDSAY:

22 Q And I will ask you, sir, there are

1 several places commencing with what appears to
2 be the fifth paragraph.

3 Sir, in order to speed this process
4 up, let me identify the areas where it appears
5 that there are redactions and ask you whether
6 you are able to tell me the names of any of the
7 individuals.

8 What appears to be the fifth
9 paragraph, what appears to be the sixth
10 paragraph and on the second page, what appears
11 to be the second full paragraph on that page
12 beginning with the words "if we decided" and in
13 what appears to be the next paragraph beginning
14 with the words "of course we could confirm."

15 My question to you, sir, is whether
16 you are able to tell me the names of any of the
17 persons whose names have been redacted?

18 A No, I cannot.

19 Q You wrote Exhibit 17 as executive
20 vice president of the Washington football team
21 on or about January 16, 1992, did you not?

22 A I did.

1 Q Both Exhibits 16 and 17 refer to a
2 prospective meeting with the Circle of Elders;
3 do you see that?

4 A I'll have to read this one.

5 Q Please do so.

6 (Witness examined document)

7 THE WITNESS: I've read it.

8 BY MR. LINDSAY:

9 Q And you see that both documents refer
10 to a prospective meeting with the Circle of
11 Elders to take place in the Summer of 1992?

12 A Yes.

13 Q Did such a meeting, in fact, take
14 place in the Summer of 1992?

15 A I don't know.

16 Q You certainly did not attend such a
17 meeting?

18 A I didn't attend it.

19 Q Did such a meeting ever take place?

20 A I don't know if the Circle of Elders
21 met, but I'm quite certain that no member of
22 the Redskins organization met with the Circle

1 of Elders.

2 Q Has any representative of the
3 Washington football team ever asked the Circle
4 of Elders to issue a statement downplaying --
5 excuse me, to issue a statement, quote,
6 "downplaying the radical position AIM has taken
7 in applauding the Washington Redskins for their
8 willingness to help Indians," closed quote?

9 A Not that I'm aware of.

10 Q Did you at some point make a decision
11 not to approach the Circle of Elders?

12 A Yes.

13 Q When did you make that decision?

14 A I don't recall.

15 Q Did you create any writings about the
16 reason for your decision?

17 A Not that I can recall.

18 Q Why did you decide not to meet with
19 the Circle of Elders?

20 A Because we subsequently learned that
21 they were not as influential as we were led to
22 believe.

1 Q Did you also learn that the Circle of
2 Elders did not agree with the position you
3 wished them to take?

4 A No, I did not.

5 Q Did you also learn that Susan Harjo,
6 a petitioner in this case, is a member of the
7 Circle of Elders?

8 A I was unaware of that.

9 (End of Confidential Portion)

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1 (John K. Cooke Deposition
2 Exhibit No. 22 was marked for
3 identification.)

4 BY MR. LINDSAY:

5 Q Sir, I'm showing you what has been
6 marked as Exhibit 22. Would you please review
7 that document.

8 MR. REINER: This document has been
9 indicated for attorneys' eyes only and
10 confidential. This document and the part of
11 the record reflecting any questions relating
12 thereto should be placed under seal.

13 (Witness examined document)

14 BY MR. LINDSAY:

15 Q Sir, have you completed your review
16 of Exhibit 22?

17 A I have read the letter.

18 Q Have you ever seen Exhibit 22 before?

19 A Yes.

20 Q When did you see Exhibit 22?

21 A At approximately the time that it was
22 sent.

1 Q And that date, sir, was?

2 A June 5, 1990.

3 Q Does that refresh your recollection
4 as to whether the Washington football team
5 objected to a trademark registration of the
6 Virginia Beach, Virginia, Redskin review?

7 A We objected to the Atlantic
8 Publishing Group, Inc., by this letter, with
9 this letter.

10 Q As far as you know, sir, is that the
11 only writing which relates to the objections
12 made by the Washington football team concerning
13 the Atlantic Publishing Group that you've just
14 referred to?

15 A I don't know.

16 Q Are you aware of any other writings?

17 A I don't recall.

18 Q Does Exhibit 22 substantially express
19 the reasons why you understood the Washington
20 football team was objecting to the Atlantic
21 Publishing Group's use of the trademarks at
22 issue?

1 MR. REINER: Object to the question.
2 The witness is not an attorney. This letter
3 was written by house counsel. But in any
4 event, you can answer the question.

5 THE WITNESS: In reading this letter
6 it appears that there is a subsequent official
7 notification coming from NFL Properties. What
8 was contained is the reasons for their
9 objection will be left up to the lawyers of NFL
10 Properties and our lawyers here.

11 BY MR. LINDSAY:

12 Q Are you now able to recall any
13 additional reasons for which the Washington
14 football team objected to Atlantic Publishing
15 Group's use of the trademarks at issue?

16 A I don't recall exactly at this time.

17 (End of Confidential Portion)

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CERTIFICATE OF SHORTHAND REPORTER -- NOTARY PUBLIC

I, MONICA A. VOORHEES, the officer before whom the forgoing deposition was taken, do hereby certify that the witness appeared before me, and the testimony of said witness was taken by me stenographically and thereafter reduced to print by means of computer-assisted transcription by me; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to this litigation and have no interest, financial or otherwise, in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this

27th day of March, 1996.

Monica A Voorhees

Notary Public, in and for the
District of Columbia

My Commission Expires:

February 28, 1998